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TIPPECANOE COUNTY COURTHOUSE, LAFAYETTE, INDIANA



INVENTORY OF THE COUNTY ARCHIVES

OF INDIANA

Prepared by



The Indiana Historical Records Survey
Division of Community Service Programs
Work Projects Administration

Sponsored by
Indiana Historical Bureau

No. 79. TIPPECANOE COUNTY (LAFAYETTE)



The Indiana Historical Records Survey
Indianapolis
1941



THE HISTORICAL RECORDS SURVEY PROGRAM

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FOREWORD

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The *Inventory of the County Archives of Indiana* is one of a number of guides to historical materials prepared throughout the United States by workers on the Historical Records Survey Program of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Tippecanoe County, is number 79 of the Indiana series.

The Historical Records Survey Program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, businessmen and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey Program attempt to do more than give merely a list of records—they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey Program, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

The Survey Program was organized by Luther H. Evans, who served as Director until March 1, 1940, when he was succeeded by Sargent B. Child, who had been National Field Supervisor since the inauguration of the Survey. The Survey Program operates as a Nation-wide series of locally sponsored projects in the Division of Community Service Programs, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

HOWARD O. HUNTER

Acting Commissioner

PREFACE

The Historical Records Survey, one of the projects of the Division of Community Service Programs of the Work Projects Administration, was organized in January 1936 with Dr. Luther H. Evans as National Director. The survey of local public records was begun in Indiana on February 19, 1936 as part of the Federal Writers' Project. Samuel J. Kagan was assigned to direct public records work, and was named State Director of the Survey in September 1936 when it became independent of the Writers' Project. On September 1, 1939 the Indiana Historical Records Survey became a state project under the sponsorship of the Indiana Historical Bureau, and Roger A. Hurst was appointed State Supervisor of the Survey in January 1940. Dr. Evans was succeeded as National Director by Sargent B. Child in March 1940.

The objectives of the Indiana Historical Records Survey are to discover, preserve, and make accessible historical materials of a public or semi-public nature. Inventories of the records of counties, cities, towns, and churches, and guides to manuscript depositories and collections have been or will be published. The Survey also transcribes certain early county records as a measure of preservation.

The *Inventory of the County Archives of Indiana* will consist of a separate volume for each county. A list of inventories published to date appears at the end of this volume. Numbers are assigned according to the county's position in an alphabetical list and thus the Tippecanoe County volume is number 79. The field work of the Survey in Tippecanoe County was begun March 2, 1936 and completed June 28, 1940. Much of the field work was performed under the supervision of Julian Jacobson, District 3 Supervisor of the Survey. Many field trips have been made since to check information used in this book and the final recheck was made by Claude Mallott in June 1940.

The inventory proper is preceded by essays on the history, government, and record housing of the county. The records themselves are described in entries giving the following information: Title of record, dates available, quantity, labeling, variant titles, description of contents, arrangement,

indexing, nature of recording, size, and location. The various county bureaus—both existing and defunct—are arranged in functional order: governing boards; major administrative offices; judicial offices; and financial, election, educational, health, public welfare, engineering, and other groups. Wherever applicable natural groupings under separate headings are made within each bureau.

Field work for this volume was submitted to a state editorial staff, of which the department heads were: Marshall Cowgill, record entries and office essays; W. Davis Hamilton, legal research; Harry Graves, historical sketch; Howard Oates, proofreading and indexing; and Charles Griffin and William Spurgeon, cartography. This volume was multigraphed by Survey personnel directed by William Deupree, who also served as managing editor and prepared the housing essay.

The Survey is deeply indebted to many Tippecanoe County officials; to Dr. Christopher B. Coleman, Director, Indiana Historical Bureau, who gave valuable advice and service; to John K. Jennings, State WPA Administrator; to Mildred E. Schmitt, State Director, Community Service Programs Division, who has rendered the Survey important service in administrative matters; to John D. Stuckey, Chief, Research and Records Programs; and to many others who contributed time and effort. The Indiana staff has also received valuable advice and criticism from the National Office of the Survey.

Five hundred copies of this inventory have been published and many have been distributed to libraries, universities, government offices, and other depositories over the state and the nation. Copies will also be available in Tippecanoe County for persons, offices, or institutions having occasion to use county records or to study local government.

ROGER A. HURST

State Supervisor

The Indiana Historical Records Survey

Indianapolis, Indiana

April 1941

TIPPECANOE COUNTY OFFICIALS

1941

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Wible Hiner
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Trustees of Lafayette and W. Lafayette,
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Trustees—Lafayette, Paul F. Royster,
Pres.; W. Lafayette, O. F. Hall, Pres.*

COMMISSION OF PUBLIC RECORDS

*Composed of the judge and clerk of
the circuit court, the president of the
board of commissioners, and the auditor*

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COUNTY HEALTH OFFICER

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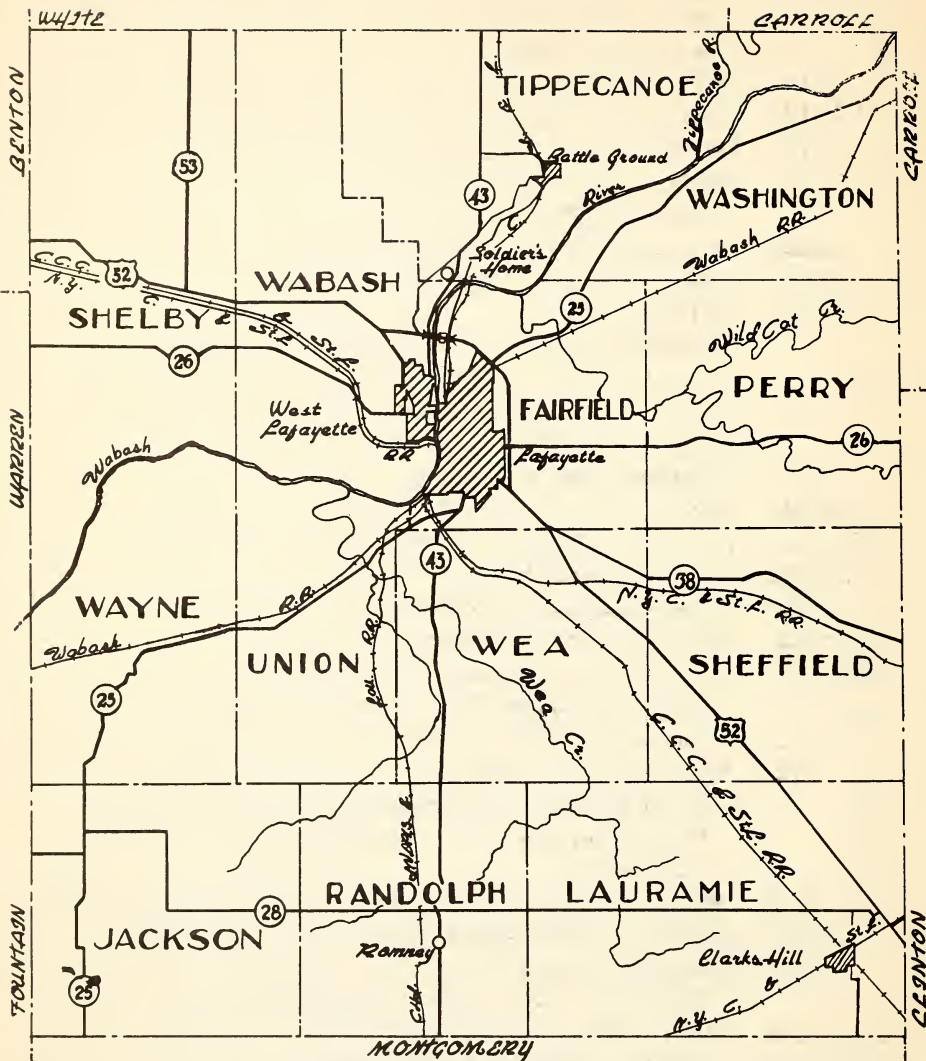
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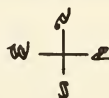
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MAP OF TIPPECANOE COUNTY

PART A. TIPPECANOE COUNTY AND ITS RECORDS SYSTEM

1. HISTORICAL SKETCH

PHYSICAL CHARACTERISTICS

Tippecanoe County is located in the west central part of Indiana, northwest of Indianapolis. The county is rectangular in shape and has an area of 504 square miles or 322,560 acres. By counties it is bounded on the east by Carroll and Clinton; on the south by Montgomery; on the west by Fountain, Warren, and Benton; and on the north by White and Carroll.¹ Tippecanoe County derives its name from the Indian word Quit-te-pe-con-nac, a modification of Kith-tip-pe-ca-nunk, signifying in the Indian dialect, buffalo-fish, which may have abounded in the waters of the Tippecanoe River in the distant past.²

The county lies almost wholly within the drainage basin of the Wabash River and its tributaries.³ The Wabash enters the county near its northeast corner, flows in a southwesterly course until it reaches the center of the county, where it turns to flow west to within $2\frac{1}{2}$ miles of the Warren County line, where it again turns southwest until it crosses the western boundary of the county at a point 10 miles north of the southwest corner.⁴

Entering the county 4 miles west of the northeast corner, the Tippecanoe River flows in a southerly direction to empty into the Wabash at a point about 3 miles south of the northern boundary line. Numerous smaller streams flowing into the Wabash have cut channels from 10' to more than 175' deep, which as a rule carry off the surface

¹ Indiana State Planning Board, Preliminary Survey of County Planning Problems in Indiana Counties, 1935-36, Tippecanoe County section, p. 1. Typewritten manuscript in Indiana State Library.

² R. P. DeHart, *Past and Present of Tippecanoe County Indiana*, I, 127.

³ Indiana Department of Geology and Natural Resources, *Thirty-seventh Annual Report*, 1912, p. 252. (hereinafter cited as Indiana, *Geological Report*).

⁴ Indiana, *Geological Report*, 1886, p. 64.

water quickly and afford good drainage.⁵ The Tippecanoe drains but a small part of the northeastern section of the county. Pine, Indian, and Burnett Creeks and their tributaries drain the area north and west of the Wabash River. The eastern half of the county, south of the Wabash River, is drained by Sugar, Buck, and Wild Cat Creeks, while the southwestern section is drained by Flint, Big Wea, and Little Wea Creeks.⁶

The general altitude of Tippecanoe County is approximately 750' above sea level. The high bluff lying about 4 miles north of Lafayette, and the uplands between Wild Cat and Sugar Creeks, have an elevation of a little over 800', and these are the highest points in the county.⁷

Along the Wabash River and its principal tributaries, the surface of Tippecanoe County is generally broken and hilly.⁸ There are many tracts of rich alluvial bottom lands along these streams.⁹ At distances of a few rods to almost a mile from the banks of the Wabash River below Lafayette the topography becomes slightly undulating and rolling, gradually extending into broad, fertile, and nearly level plains which comprise nearly one-half the surface of the county.¹⁰

The entire region of Tippecanoe County is covered with glacial debris, a soil drift varying in thickness, of which the greatest known depth is about 350'.¹¹ Gravel deposits underlie a great part of the county. This is particularly true of the Wea plains and the eastern region near Dayton where there are many low mounds of fine, clean, yellow or white sand and some gravel. Mounds of the same character are found in Jackson Township in the southwest part of the county.¹²

Of the 17 different types of soils in Tippecanoe County, Marshall silt loam predominates, with Marshall loam and Miami silt loam next in order. These three types cover nearly three-fourths of the county.¹³ Suitable climatic

⁵ Indiana, *Geological Report*, 1912, p. 252.

⁶ *Ibid.*, p. 252.

⁷ *Ibid.*, p. 252.

⁸ *Ibid.*, p. 252.

⁹ Indiana *Geological Report*, 1886, pp. 66, 67.

¹⁰ Indiana *Geological Report*, 1912, p. 252.

¹¹ Indiana *Geological Report*, 1886, pp. 61, 76.

¹² *Ibid.*, p. 66.

¹³ Indiana *Geological Report*, 1912, p. 255.

conditions afford a growing season of 6 months without frost, and the fertile land of a limestone sub-soil overlaid with rich loam makes Tippecanoe County a good farming district. The county has a mean annual temperature of 51° Fahrenheit, and an average annual rainfall of 38".¹⁴

MOUND BUILDERS AND INDIANS

Evidences of Mound Builders, a people who inhabited a great part of North America prior to the Indians, are numerous in Tippecanoe County. Drills, spearheads, arrowheads, stone axes, scrapers, pestles, mortars, gorgets, pottery, copper bracelets, copper beads, and many other relics have been found. Near Battle Ground and on Pretty Prairie, north of the town, are numerous mounds built by the aborigines. In the northeast part of the county, near the mouth of the Tippecanoe River, are another series of mounds.¹⁵

The Miami tribe of Indians, descendants of the Algonquin family, were apparently the original occupants of this part of Indiana. The Weas, a branch of the Miamis, occupied much of the country south of the Wabash and west of Wea Creek a region now known as Wea Prairie. About 1688, however, the Potawatomi, a northern tribe, took possession, either by force or treaty, of that part of the county north of the Wabash and east and south of the Tippecanoe River.

On the north side of the Wabash and opposite the land of the Weas, the Kickapoo held land and established two large Indian villages. South of the Weas a band of the Shawnees occupied a tract of the county, chiefly prairie, on which one of their villages was located. The Winnebagoes occupied a town on Wild Cat Creek, above its mouth. The Weas and Kickapoos in 1805 or 1806 granted to Tecumseh and his brother, "The Prophet," a small tract of land on the north side of the Wabash and west of the mouth of the Tippecanoe, where an Indian town later called "Prophetstown" was located.¹⁶

DISCOVERY, EXPLORATION, AND CONQUEST

Exploration of the region northwest of the Ohio River

¹⁴ *Ibid.*, p. 251.

¹⁵ *Biographical Record and Portrait Album of Tippecanoe County, Indiana*, (hereinafter cited as *Biographical Record*), pt. 1, p. 190.

¹⁶ *Ibid.*, pp. 202, 203.

was begun by Marquette, Joliet, and La Salle in the latter part of the seventeenth century. As early as 1664, French missionaries and traders had established a line of travel along the Wabash River from the Great Lakes to the Mississippi.¹⁷ On the basis of these and other explorations France laid claim to the territory. During the first half of the eighteenth century the French established three trading posts in what is now Indiana: Post Miami (Fort Wayne), at the head of the Maumee, about 1715;¹⁸ Ouiatanon, on the Wabash at the mouth of Wea Creek, near the site of Lafayette, about 1719 or 1720;¹⁹ and Vincennes, on the lower Wabash, sometime before March 1733.²⁰

Ouiatanon was established to counteract the influence of the English and to maintain French ascendancy over the Indians. The fort was adjacent to an Indian village. The locale was described by a French writer in 1718 in the following account: "This river Ouabache is the one on which the Oujatanons are settled. They consist of five villages which are contiguous, the one to the other. They are all Oujatanons, having the same language as the Miamis, and properly all Miamis. Their village is situated on a high hill and they have over two leagues of improvements where they raise Indian corn, pumpkins and melons. From the summit of this elevation nothing is visible to the eye but prairies full of buffaloes."²¹ French families and traders resided in Ouiatanon as late as 1767 and the volume of commerce was considerable, the annual value of skins and furs from Ouiatanon being approximately £8,000.²²

The British likewise laid claim to the territory embracing Indiana and in the middle of the eighteenth century began to enter Ohio Valley from the east. Conflicting territorial claims led to the French and Indian War, which ended in 1763 resulting in loss by the French of their colonial empire in America. The Ohio country, including what is now Indi-

¹⁷ *Ibid.*, p. 203.

¹⁸ M. M. Quaife, "Fort Wayne, in 1790," *Indiana Historical Society Publications*, VII, no. 7 (1923), 301.

¹⁹ P. G. Roy, "Sieur de Vincennes Identified," *Indiana Historical Society Publications*, VII, no. 1, (1923) 372.

²⁰ P. C. Phillips, "Vincennes in its Relation to French Colonial Policy," *Indiana Magazine of History*, XVII (1921), 323.

²¹ O. J. Craig, "Ouiatanon," *Indiana Historical Society Publications*, II, no. 2.

²² *Ibid.*, p. 23.

ana, passed into the hands of Great Britain.²³ During the American Revolution, General George Rogers Clark conquered the western country in 1778 and 1779, and the Virginia legislature in December 1778 created the "County of Illinois" to provide a government for Virginia citizens residing on "the western side of the Ohio."²⁴ At the close of the Revolution, the Ohio Valley was claimed by several of the states upon the basis of their colonial charters from British monarchs. These claims were finally ceded to the United States, and by the Ordinance of July 13, 1787, Congress created the Northwest Territory for the government of the western country.²⁵ In 1800 Indiana Territory, with boundaries much more extensive than the present boundaries of the state, was organized.²⁶ Sixteen years later Indiana, with approximately its present boundaries, was organized and admitted to the Union as a state.²⁷

INDIAN WARS AND TREATIES

The most formidable obstacle to the settlement of the western country was the opposition of the Indians who were encouraged and aided by the British. Ably led by Little Turtle, a chief of the Miamis, the savages in 1790 defeated an expedition under General Josiah Harmar on and near the present site of Fort Wayne, then known as Miamitown, and again the next year won an engagement over forces led by General Authur St. Clair near the headwaters of the Wabash.²⁸

In 1794 the Indians were decisively defeated by General Anthony Wayne in the battle of Fallen Timbers (Ohio) and were forced to sue for peace.²⁹ By the Treaty of Greenville, signed August 3, 1795, about half of Ohio and a small portion of Indiana were thrown open to white settlement.³⁰ After

²³ John G. Rauch and Nellie C. Armstrong, *Bibliography of the Laws of Indiana, 1783-1927*, Introduction, pp. 13, 14.

²⁴ W. W. Hening, *The Statutes at Large . . . of Virginia* XI, 571-573

²⁵ C. E. Carter, *Territorial Papers of the United States*, II, 3 et seq.

²⁶ *Annals of Congress*, 6th Congress, 1st Session, p. 1458.

²⁷ For the enabling act see *Annals of Congress*, 14th Congress, 1st Session, p. 1841; for the resolution admitting Indiana to statehood, see the *Annals of Congress*, 14th Congress, 2d Session, p. 1348.

²⁸ Quaife, *op. cit.*, p. 302.

²⁹ Papers of the Wayne Campaign are in *American State Papers, Indian Affairs*, I, 487 et seq.

³⁰ 12 U. S. Stat. 49-54.

this treaty, the Indians north of the Ohio were nominally at peace with the United States until 1811 when Tecumseh endeavored to form a confederacy to resist further encroachment by the whites. The confederacy was broken by defeat in the Battle of Tippecanoe, November 7, 1811, in which forces commanded by General William Henry Harrison were victorious.⁸¹ This battle was fought in what is now Tippecanoe County, at a point 8 miles north of Lafayette, near the present town of Battle Ground. The ground whereon the engagement took place was given to the State of Indiana by John Tipton, one of the soldiers who fought there under General Harrison. However, in 1846 the General Assembly granted control of the battle site to the Tippecanoe County commissioners who were to "fence and keep the grounds in good condition."⁸² Today the site of the battle is enclosed by an iron fence and marked by a monument.

After the Battle of Tippecanoe and the destruction of Prophetstown 2 miles east of the battlefield, only scattered groups of Kickapoo, Miami, Potawatomi, and other tribes remained in what is now Tippecanoe County.⁸³ With the surrender of Detroit to the Americans at the close of the War of 1812, further opposition by the English-allied Indians north of the Ohio was useless and their titles to lands in Indiana were rapidly extinguished. The New Purchase, including territory south of the Wabash River, and the lands from which the south and east parts of Tippecanoe County were later formed, was acquired in 1818 through treaties concluded at St. Mary's, Ohio with the Miami and other Indian tribes.⁸⁴ A section of one treaty gave Tippecanoe County lands to various Indians, and reads in part: "To Keenquatakqua or Long Hair, Aronzen or Twilight, Peconbequa or a Woman striking, Aughquamauda or Difficulty, and to Miaghqua or Noon, as joint tenants, five sections of land upon the Wabash River, the centre of which shall be the Wyandot village, below the mouth of Tippecanoe River."⁸⁵ Another section of a treaty made at St. Mary's set aside 11 sections of land for the children of Cakimi, a sister of a Potawatomi chief. Six of these sections were to be located at the mouth of the Tippe-

⁸¹ De Hart, *op. cit.*, p. 101.

⁸² Commissioners' Record, vol. G, p. 428, *see* entry 1.

⁸³ De Hart, *op. cit.*, p. 176.

⁸⁴ Charles J. Kappler, *Indian Affairs, Laws and Treaties*, II, 171, 172.

⁸⁵ *Ibid.*, p. 172.

canoe and downstream along the Wabash River.³⁶ This land became known as the Burnett Reserve and from it was named Burnett Creek which flows through the land granted to the Indian descendants. Through these and subsequent treaties the Indians gave up the lands north of the Wabash and 20 years later the last of the tribes had removed to reservations west of the Mississippi River.³⁷

WHITE SETTLEMENT

To facilitate the sale of land in the New Purchase, a large tract of land in central Indiana, land offices were established at Terre Haute and Brookville in 1819.³⁸ Land sales at Crawfordsville opened as early as 1824, but no permanent land office was established there until 4 years later.³⁹ The price of land, set at \$2 per acre by an act of Congress in 1796,⁴⁰ was changed to \$1.25 per acre by an act of 1820,⁴¹ and was a great inducement to settlement of the new territory.

Close on the heels of land sales came homeseekers, but not before traders and trappers had arrived in the new country later to become Tippecanoe County. Probably the first white man to enter what is now the county was a Frenchman named Burnett who established a trading post in the northeastern part of the county.⁴² Among the earliest settlers in the county were Peter Weaver, who arrived in the fall of 1822 or the next spring from the upper White River to settle on the Wea Plain, and Elijah Moore, who settled in what is now Wayne Township in 1822.⁴³ That year—or possibly the year before—Levi Thornton and Samuel Black were the first settlers in Wea Township. They were followed by several others, among them a Judge Wiley, John I. Davidson, a Judge Provolt, William Burke, Steven Kennedy, Samuel Gwinn, and William Jones.⁴⁴ Pioneers in settling what is now Sheffield Town-

³⁶ *Ibid.*, p. 169.

³⁷ De Hart, *op. cit.*, p. 29.

³⁸ 3 U. S. Stat. 521.

³⁹ Sanford C. Cox, *Recollections of the Early Settlement of the Wabash Valley*, p. 17.

⁴⁰ 3 U. S. Stat. 566, 567.

⁴¹ *Ibid.*, 2, 277-283.

⁴² De Hart, *op. cit.*, p. 176.

⁴³ *Ibid.*, p. 147.

⁴⁴ *Ibid.*, p. 181.

ship were James Paige, Richard Baker, and the Luther Corbin and Thompson families, who entered the township in 1823.⁴⁵ Daniel Underhill came to the Perry Township region the same year.⁴⁶

Many of these early settlers of the county and the upper Wabash country made their way across the State from the upper Whitewater Valley, passing through Andersontown, and down the White River to Strawtown. There they took the wilderness road to Crawfordsville and even fainter trails to their intended homes on the Wabash.⁴⁷

CREATION AND ORGANIZATION OF THE COUNTY

The provisions of an act of the Indiana General Assembly entitled, "An act for the formation of a new county out of the County of Wabash, and for establishing the county-seat thereof," were approved January 20, 1826, and declared "that all that part of Wabash County contained within the boundaries therein specified shall form and constitute a new county, to be known and designated by the name of Tippecanoe."⁴⁸ The boundaries of the new county were designated as "beginning at the north east corner of the county of Montgomery, on the township line dividing ranges two, and three west of the second principal meridian; thence north twenty-four miles; thence west, twenty-one miles; thence south twenty-four miles; thence east twenty-one miles, with the north line of Montgomery County, to the place of Beginning."⁴⁹ The act also provided "that the said county of Tippecanoe, shall be attached to the county of Montgomery, for judicial purposes, until otherwise provided by law."⁵⁰

An act of January 24, 1828 attached to Tippecanoe County for criminal and civil jurisdiction the territory within the following bounds: "Beginning on the eastern boundary line of Tippecanoe county, at the point where the central section line of town twenty-three, north, intersects the same; thence east with said line . . . twenty four miles, to the range line dividing ranges two and three, east of the second prin-

⁴⁵ *Ibid.*, pp. 185, 186.

⁴⁶ *Ibid.*, p. 183.

⁴⁷ Logan Esarey, *History of Indiana*, I, 299.

⁴⁸ L. 1825-1826, ch. 10, secs. 1, 2.

⁴⁹ *Ibid.*, sec. 1.

⁵⁰ *Ibid.*, sec. 8.

cipal meridian; thence south, with said line, eighteen miles to the center of town twenty; thence west with the sectional line to the range line dividing ranges two and three west; thence north, with said line, to the place of beginning."⁵¹ This act, which became effective on its date of passage (January 24, 1828), provided that "all the country north of the counties of Tippecanoe and Carroll, and west of the second principal meridian, to the northern boundary of the state, and not otherwise attached . . . be attached to the counties of Tippecanoe and Carroll, with concurrent civil and criminal jurisdiction."⁵² Until the formation of White County in 1834 this jurisdiction seems to have been more or less exercised.

The commissioners appointed to locate the county seat selected the town of Lafayette. Advantages of the choice were the town's central location and the offer of Samuel Sargeant, Isaac C. Elston, John Wilson, and Jonathan W. Powers to donate all even-numbered lots in the new town to the county.⁵³

In the early days of the county, justices of the peace performed the duties of a county board of justices, which later became the board of county commissioners. The first meeting of this group was held at the home of James Brockman on July 8, 1826, in what is now Fairfield Township. Present were William Bush, Levi Thornton, Stephen Kennedy, and John Russell. Bush was elected president; other business included receiving bonds from Reuben Kelsey and Robert Alexander covering warranty deeds for land within the county, and bonds from Isaac C. Elston, Samuel Sargeant, John Wilson, and Jonathan W. Powers for a warranty deed for even-numbered lots in the town of Lafayette. The board also ordered the sale of these lots, and issued licenses at 2 dollars per year to James Wyman and William Smith "to vend foreign merchandise" within the county. Reuben Kelsey was appointed county agent; and Samuel Black, county treasurer. The townships of Wabash, Fairfield, and Randolph were created at this meeting, and inspectors appointed to hold township elections, the board setting the place and date.⁵⁴

⁵¹ L. 1828-1829, ch. 10, sec. 2.

⁵² *Ibid.*, sec. 6.

⁵³ De Hart, *op. cit.*, pp. 413, 414.

⁵⁴ Board of Justices' Record, vol. A, pp. 1-4, *see* entry 1.

Later townships created and the dates on which they were organized included Wayne, March 4, 1828; Washington, March 3, 1829; Tippecanoe, May 2, 1829; Shelby, Sheffield, and Perry, September 7, 1829; Jackson, January 5, 1830;⁵⁵ Wea, June 3, 1857;⁵⁶ Lauramie (formerly called Cole), in 1830;⁵⁷ and Union, March 10, 1871.⁵⁸ From time to time township lines were altered by the transfer of small sections from one township to another at the demands of the residents but it was not until the organization of Union Township that any major change took place. Fourteen sections of this township were a part of Wayne Township, about 6 sections of the southeast part of the township belonged to Randolph Township, and approximately 8 sections of the northeast part of the township were a part of Fairfield.⁵⁹

John R. Porter served as the first President Judge of the Circuit Court (1826-37), and the first Associate Judges were William Jones, James Wylie, and John Provolt. E. M. Huntington was the first prosecuting attorney, and David F. Durkee was the first county sheriff.⁶⁰ Lawyers who attended the first courts of Tippecanoe County were from Indianapolis, Terre Haute, Vincennes, Connersville, Rockville, Covington, Williamsport, Crawfordsville, and from the State of Illinois. These early attorneys traveled the circuits mainly on horseback,⁶¹ and the first sessions of the courts were held in the homes of the settlers and later in the rooms of Richard Johnson's "City Hotel," a structure at the corner of what is now Second and Ferry Streets in Lafayette and opened for public use May 8, 1827.⁶²

EARLY LAFAYETTE

The development of Tippecanoe County is closely linked with the growth of Lafayette, the county seat, located on the east bank of the Wabash River. This townsit was selected for settlement by William Digby in 1825, possibly because

⁵⁵ *Ibid.*, vol. B, pp. 15, 88, 114, 126, 128, 171.

⁵⁶ Commissioners' Record, vol. F, p. 444.

⁵⁷ De Hart, *op. cit.*, p. 188.

⁵⁸ Commissioners' Record, vol. I, p. 389, *see* entry 1.

⁵⁹ *Ibid.*, vol. I, p. 389.

⁶⁰ De Hart *op. cit.*, pp. 163, 165.

⁶¹ *Biographical Record*, *op. cit.*, p. 240.

⁶² De Hart, *op. cit.*, p. 418.

of its availability to water transportation.⁶³ Soon industries and business enterprises were established and the new community boasted a dozen grocery, drygoods, and liquor stores and about the same number of residences. A hotel was built, and a tavern operated by Robert Johnson.⁶⁴

The *Lafayette Free Press and Commercial Advertiser* of April 1, 1829, published notice of the activities of the new town; a Dr. Davis advertised that "a general assortment of medicines will be prescribed for without extra charge;" C. Fink, druggist, announced that he has taken J. D. Farmer into partnership; and attention was called to "the regular packet for Terre Haute and all intermediate landings, the new and fast running steamboats, Tippecanoe and Highlands—built expressly for the Wabash trade, of very light draft and expected to run a whole season for freight and passengers."⁶⁵ There were two justice's offices and one doctor's office, three tanyards and a brickyard in operation by 1833.⁶⁶ Lafayette was incorporated as a town March 15, 1845,⁶⁷ and as a city in 1853.⁶⁸

COUNTY FINANCES AND TAXATION

Many entries in the early records of Tippecanoe County attest the sources of revenue for the prosecution of the then simple county business. Fines, licenses, and taxation provided revenue, and the following are typical: "Granted Isaac Shelby license to operate a ferry on Wabash River at \$3 dollars per year and set ferry rate at; for man, 6¼ cents; for horse, 12½ cents, and for hog or sheep, 6¼ cents," and "granted William Digby licence to retail merchandise for a fee of ten dollars per year."⁶⁹

A meeting of the board of justices, held January 3, 1831, decreed that "the following are to be the subjects of taxation for county purposes for the year 1831 [:] On each poll, twenty-five cents, on each horse or mule twenty-five cents, on each work oxen twelve and a half cents, on gold and silver and pinch back watches—brass clocks, pleasure carriages—stud horses, land, town lots in said county [are all] subject to pay

⁶³ *Biographical Record*, *op. cit.*, p. 259.

⁶⁴ *Ibid.*, pp. 260, 261.

⁶⁵ Paul V. Mavity, *Centennial Book, Lafayette and Tippecanoe County*, p. 37.

⁶⁶ *Biographical Record*, *op. cit.*, p. 261.

⁶⁷ Commissioners' Record, vol. D, p. 487, *see* entry 1.

⁶⁸ *Biographical Record*, *op. cit.*, p. 263.

⁶⁹ Board of Justices' Record, vol. A, pp. 5, 7, *see* entry 1.

taxes at the rates fixed by law."⁷⁰ Fines of 3 dollars for assault and battery were assessed by Justice of the Peace courts and were a frequent source of revenue; and fines of 1 dollar were assessed for "swearing." One dollar each was paid for large wolf scalps taken within county boundaries.⁷¹

Despite the sparse population: county revenue was \$123.72½ as of May 7, 1827,⁷² and had grown to \$2,181.00 for the year 1833, a reflection of the increase in county business.⁷³

TRANSPORTATION

Water transportation was the most common means of travel in early Tippecanoe County. The Wabash River was the region's chief artery of commerce, and as early as 1822 James Suit, trapper and trader, had arrived in what is now Wabash Township to collect wild honey and furs for sale down river. Loading a cargo of beaver furs and honey on his keelboat, he floated down the Wabash to Vincennes, exchanged his produce for a cargo of salt, Mackinaw blankets, dry goods, whiskey, and general merchandise, which he sold or traded to the Indians upon his return to Tippecanoe County.⁷⁴ Issac C. Elston, a Lafayette merchant, brought a steamer to the county as early as 1825 and 5 years later Captain John Moon ran the *Paragon* to the mouth of Rock Creek, about 12 miles below Logansport.⁷⁵

The Wabash and Erie Canal was completed to Lafayette from Toledo, Ohio on July 4, 1843, but was not completed to Vincennes until 1849.⁷⁶ The *Tippecanoe Journal and Free Press* of April 27, 1842 advertised: "The Indiana and New York Canal Transportation Co: The proprietors of the above line of boats will run a daily line of boats from Lafayette to Lake Erie; in connection with the lake boats to outlying points." The completion of the canal to Lafayette was a stimulus to the commerce and growth of both town and county.⁷⁷

⁷⁰ *Ibid.*, vol. B, p. 314.

⁷¹ *Ibid.*, vol. A, pp. 16, 25.

⁷² *Ibid.*, vol. A, p. 19.

⁷³ Commissioners' Record, vol. C, p. 254.

⁷⁴ De Hart, *op. cit.*, p. 192.

⁷⁵ Esarey, *op. cit.*, pp. 303, 304.

⁷⁶ *Ibid.*, p. 360.

⁷⁷ William M. Reser, *Wabash and Erie Canal and its Local Importance*; p. 14, (typewritten ms. in Indiana State Library).

Roads began early in the county, and the first county board of justices provided for "the appointment of Adam De Hart, John McFarland, and Levi Dickson, to locate a road to the county limits connecting Lafayette and Crawfordsville." Meeting May 7, 1827, the board "ordered that Lawrence B. Stockton, James Thornton and Jonathan Wolf locate and survey a road commencing at Lafayette and north to house of John H. Davis, and north through Harrisons battleground to intersect the old Indian trail leading to Fort Wayne, at the shallow ford immediately above the two islands near the mouth of the Tippecanoe."⁷⁸ Subsequent meetings of the governing body authorized the establishment of many miles of county roads.

The heavy immigration into the Wabash country soon caused much travel to and from Terre Haute, Lafayette, and Logansport. In 1838 W. L. Ross organized a line of stages, whose four-horse coaches carried mail and passengers between Lafayette, Logansport, and Fort Wayne. When the roads were dry, passengers clung tightly to their seats as the coach bounced from rock to rock; during wet weather, always present was the danger of overturning or becoming mired in mudholes or in crossing the streams.⁷⁹ The poor condition of the early roads led to the formation in 1849 of the Lafayette Plank Road Company to construct a plank road from the county seat to the village of Dayton. The following year, the Western Plank Road Company was formed to construct a plank road northwest of Lafayette, and in 1851, the Junction Plank Road Company was organized to build a plank road from Dayton to the Clinton County line.⁸⁰ The immense deposits of gravel underlying the county later became an important source of road material.⁸¹ County records reflect the interest of the residents in the building of good roads, as numerous entries in the records for 1871 attest.⁸² By 1904, Tippecanoe County was crossed by 825 miles of roads, 400 of which were improved with gravel.⁸³

⁷⁸ Board of Justices' Record, vol. A, pp. 7, 20, *see* entry 1.

⁷⁹ Esarey, *op. cit.*, p. 299.

⁸⁰ Commissioners' Record, vol. E, pp. 135, 540, 565, *see* entry 1.

⁸¹ *Biographical Record*, *op. cit.*, pp. 199, 200.

⁸² Commissioners' Record, vol. I, pp. 366, 369, 372, 381, 382, 386, 404, 411, 414, 443, 445, 446, 447, 448, 476, *see* entry 1.

⁸³ U. S. Department of Agriculture, *Public Roads of Indiana: Mileage and expenditures in 1904*, Office of Public Roads Circular no. 66, p. 4.

The middle of the nineteenth century witnessed the coming of the railroad to Tippecanoe County, but not before grants of money—some of it from taxes—had been raised to subscribe to stock of the rail companies.⁸⁴ The Louisville, New Albany, and Chicago Railroad—now more familiarly known as the Monon—was the first railroad to enter the county. Originally called the New Albany and Salem Railroad, the line was completed in the fall of 1852,⁸⁵ passing across the county in a north and south direction, through the present locations of Ash Grove, Battle Ground, Lafayette, Taylor, South Raub, and Corwin. The Wabash, running from the northeast corner of the county through Lafayette to the western county line, was completed in 1854. The Lafayette, Muncie and Bloomington Railroad Company was started in Lafayette by Adams Earl in 1869. It later was known as the Lake Erie and Western Railroad, and still later as the New York, Chicago, and St. Louis Railroad. Tippecanoe County gave \$373, 000 to aid this enterprise and the track was completed in 1874 through Montmorenci, Lafayette, Stockwell, and Clarks Hill. The Cincinnati, Lafayette and Chicago Railroad was organized in 1869, to construct a 75 mile line from Lafayette to Kankakee, Illinois, there to join the Illinois Central for Chicago. This later became a part of the Cleveland, Cincinnati, Chicago, and St. Louis Railway Company and is now known as the Big Four passing through Montmorenci, Lafayette, and Dayton. A narrow gauge track was built through Clarks Hill in 1888, and was later widened to standard gauge and became a part of the Nickel Plate System.⁸⁶

Facilities for air travel and commerce in Tippecanoe County are at present centered in Lafayette, where there are two airports; one maintained by Purdue University and the United States Civil Aeronautics Authority, used mainly for student instruction and training, and located 2½ miles southwest of the city; and a private airport, used for commercial uses and student training, located 2 miles south of Lafayette.⁸⁷

SOCIAL WELFARE

Before the establishment of a poor asylum in Tippecanoe

⁸⁴ Commissioners' Record, vol. E, p. 551; vol. F, pp. 35, 146, *see* entry 1.

⁸⁵ *Biographical Record*, *op. cit.*, p. 257.

⁸⁶ *Ibid.*, pp. 257, 258.

⁸⁷ U. S. Civil Aeronautics Authority, *Directory of Airports and Seaplane Bases*, bulletin no.

County it was the practice to permit individuals to care for persons who had become public charges, and to allow payment for this service from the county treasury. Examples are frequent in the county's records and the following are typical: "allowed to William Bush the sum of Ten dollars and sixty-nine cents for provisions furnished J. Bolser a poor person and family while sick"; and "allowed Robert T. Hunter, Seven dollars and fifty cents for keeping Marion Shaply and infant, admitted as a pauper by the overseer of the poor for Fairfield Township." At its November 1830 session the Board of Justices "allowed to James A. Groves, Thirteen dollars and fifty-six and one-fourth cents for keeping John Smith, a pauper stranger in his last sickness."⁸⁸

A farm to be used as an asylum for the poor was purchased by the county in March 1837.⁸⁹ Following the practice established by an early state law entrusting persons who had become public charges to care of the lowest bidder,⁹⁰ the Tippecanoe County Board of Justices at the January 1840 session accepted the bid of Daniel Campbell of \$300 per year to act as superintendent of the poor farm. He was expected to operate the asylum "in a farmer like manner . . . and to board and nurse all the paupers that may be placed in the poor asylum and to furnish all necessary for their support in a humane manner, and to make and furnish all the coffins that may be required for the paupers dying at the asylum."⁹¹ This farm was located in the western part of what is now Fairfield Township, and was operated by the county until April 1856, when another farm of 250 acres, in the northern part of Wabash Township—northwest of Lafayette—was purchased, and the paupers removed to the new location.⁹²

A home for friendless women and children was organized in 1870 and a children's home association was organized in 1887. Both organizations were located in Lafayette,⁹³ and 4 years after its founding, the children's home association purchased a building at 10th and Heath Streets, where it remained until 1930. Tippecanoe County assumed the care of the orphan children and a new home was established in that

⁸⁸ Board of Justices' Record, vol. B, pp. 53, 224, 289, *see* entry 1.

⁸⁹ Commissioners' Record, vol. C, p. 573.

⁹⁰ Acts 1817-18, ch. 14, sec. 3.

⁹¹ Commissioners' Record, vol. D, p. 123. *see* entry 1.

⁹² *Ibid.*, vol. F, pp. 364, 366.

⁹³ *Biographical Record*, *op. cit.*, p. 268.

year in the county seat.⁹⁴ In 1930 the Indiana Pythian Lodge opened an old people's and orphan's home on a 28-acre site adjacent to Lafayette on the southeast.⁹⁵ A Roman Catholic orphan asylum has been operating in Lafayette since 1876.⁹⁶ Other welfare institutions in the county include the William Ross Sanatorium (for tubercular patients), deeded to the county in 1930,⁹⁷ and two hospitals—St. Elizabeth and Home—in Lafayette.⁹⁸

SCHOOLS AND LIBRARIES

The first school in Tippecanoe County was taught by Joseph Tatman in a log cabin in Lafayette in 1827-28, and the following year John D. Farmer taught a school in the courthouse. In 1836 a schoolhouse was built in Lafayette on 11th Street, the first building erected in the town for that purpose.⁹⁹ The first schoolhouse in Wabash Township was built in 1832 and was taught by Sanford C. Cox.¹⁰⁰ A subscription school was taught in Randolph Township as early as 1826, where the school term lasted about 4 months and each pupil subscribed a part of the teacher's salary. Early schools were taught in the homes of the settlers and in public buildings¹⁰¹ until the construction of one-room schoolhouses which preceded the present day consolidated township schools.

The general assembly enacted legislation in 1824 providing for the establishment of county seminaries,¹⁰² and interest in the establishment of schools in the county became evident as early as 1830 when the board of justices appointed Andrew W. Ingraham as trustee of the seminary fund for a period of 3 years.¹⁰³ This fund, created by the Indiana Constitution of 1816, provided that "the money which shall be paid, as an equivalent, by persons exempt from militia duty,

⁹⁴ Indiana State Planning Board, *op. cit.*, p. 18.

⁹⁵ Lafayette Journal and Courier, Nov. 30, 1927.

⁹⁶ Biographical Record, *op. cit.*, p. 291.

⁹⁷ Lafayette Journal and Courier, July 2, 1930.

⁹⁸ Indiana State Planning Board, *op. cit.*, p. 6.

⁹⁹ Biographical Record, *op. cit.*, p. 304; Sarah M. Crockett, *Old Days and New in Tippecanoe*, p. 83.

¹⁰⁰ De Hart, *op. cit.*, p. 192.

¹⁰¹ *Ibid.*, p. 198.

¹⁰² Rev. L. 1824, ch. 22, secs. 1, 2.

¹⁰³ Board of Justices' Record, vol. B, p. 188, *see* entry 1.

except in time of war, shall be exclusively, in equal proportions, applied to the support of the county seminaries; also fines assessed for any breach of the penal laws shall be applied to said seminaries in the counties wherein they shall be assessed."¹⁰⁴ A county seminary was opened in December 1842¹⁰⁵ by Joseph Adams and was located in Lafayette. No record is found of the purchase of ground or erection of buildings for a seminary and it is probable that the county rented a school building. The county commissioners on December 6, 1844 appointed Lawrence B. Stockton and Rudolph H. Ford, to serve 1 year, and Joseph L. Hanna, Charles F. Wilstack, S. R. Johnson, and Edward Wright to serve 2 years as trustees of the seminary fund.¹⁰⁶

The Indiana Constitution of 1851 abolished the seminary law and transferred the funds to the common school fund. A further provision made it mandatory that the legislature "provide by law, for a general and uniform system of Common schools, wherein tuition shall be without charge and equally open to all."¹⁰⁷ Available records do not indicate if a county seminary existed between 1851 and 1858, but the county commissioners on September 9, 1858 ordered ground purchased and repairs made upon buildings thereon and a county seminary to be opened as the Lafayette Collegiate Institute.¹⁰⁸ This educational venture evidently was short-lived as 2 years later the building and grounds were leased to the Bishop of the Fort Wayne Diocese of the Roman Catholic Church for the purpose of establishing an educational institution.¹⁰⁹

Prior to the appointment of a county superintendent of schools, county examiners were selected by the commissioners to examine students and a fee of 50 cents to \$1.50 was charged for each examination. The first school examiners in Tippecanoe County were Johnson Gregory, John M. La Rue and John Levering, who were appointed in 1853.¹¹⁰ John E. Mathews was the first county superintendent of schools, and was appointed on June 2, 1873.¹¹¹

¹⁰⁴ Const. 1816, art. 9, sec. 1, in Rev. Stat. 1843, pp. 38-64.

¹⁰⁵ *Biographical Record*, *op. cit.*, p. 304.

¹⁰⁶ Commissioners' Record, vol. D, p. 471, *see* entry 1.

¹⁰⁷ Const. 1851, art. 8, sec. 1.

¹⁰⁸ Commissioners' Record, vol. F, pp. 526-528, *see* entry 1.

¹⁰⁹ *Ibid.*, vol. G, p. 33.

¹¹⁰ *Ibid.*, vol. F, pp. 182, 206, 279.

¹¹¹ Brainard Hooker, *First Century of the Public Schools of Tippecanoe County*, p. 81.

. There were 150 teachers employed in Tippecanoe County in 1879,¹¹² and by 1888 there were 222 teachers and 8,214 pupils. Annual county teachers' institutes were inaugurated in the latter year, and were sometimes attended by 200 teachers for the 5-day sessions.¹¹³ After the turn of the century, teaching technique improved, and enrollment steadily increased. In 1924 there were 12 consolidated township schools in the county and motor busses were used to transport the pupils.¹¹⁴ School enrollment for the county in 1935 was 5,890 grade pupils and 2,503 high school students, and Union Township was the only township not to have a high school. The county received \$12,000 as state school aid in 1935.¹¹⁵ The high schools in Lafayette and West Lafayette, and St. Francis High School, a Lafayette parochial school with an enrollment of 170, were given first-class educational ratings by the Indiana State Department of Public Instruction.¹¹⁶

Farmers Institute, a boarding school of which no record exists outlining its curriculum, was organized in 1851 and met in a schoolhouse on the south line of Union Township. The school was supported by contributions of the citizens and Joseph Fisher was the first principal. This institution later came under the control of the Society of Friends and held regular sessions as late as 1888.¹¹⁷ The Stockwell Collegiate Institute, an institution teaching academic subjects and located in Stockwell, Lauramie Township, was organized in 1859. Its founders erected a building commodious enough to accommodate 250 students and donated 18 acres of wooded land as a campus. The school opened in 1860 with 100 students in attendance. Still later collegiate and commercial departments were added. Sponsored by the Northwestern Conference of the Methodist Episcopal Church, the school was in existence as late as 1888.¹¹⁸ Existing records fail to state the cause of its suspension.

¹¹² *Ibid.*, p. 55.

¹¹³ *Biographical Record*, *op. cit.*, p. 243.

¹¹⁴ *Crockett, op. cit.*, p. 90.

¹¹⁵ *Indiana State Planning Board, op. cit.*, p. 9.

¹¹⁶ *Indiana State Department of Public Instruction, Indiana School Directory, 1935-1936*, pp. 285, 287, 288.

¹¹⁷ *De Hart, op. cit.*, p. 189; *Biographical Record, op. cit.*, p. 330.

¹¹⁸ *Biographical Record, op. cit.*, p. 322.

The major educational institution of Tippecanoe County, Purdue University, was provided for by the Morrill Act passed by Congress July 2, 1862. Seven years later, the Indiana General Assembly accepted from John Purdue and other citizens of the county the sum of \$200,000 and a tract of 100 acres of land, and voted to erect the proposed institution in Tippecanoe County.¹¹⁹ The first regular academic year of Purdue University began September 16, 1874 with an enrollment of 64 students and a faculty of 6 instructors.¹²⁰ Courses of instruction were given in physics, industrial mechanics, mathematics, engineering, botany, horticulture, chemistry, English literature, and drawing. In 1879 the school was reorganized to embrace a scientific, mechanical engineering, and a special school of agriculture. The agricultural experiment station was put in operation in 1880,¹²¹ although it was 1908 before a permanent station was erected for that use.¹²² The engineering department of Purdue began its experiments in 1880 and the first locomotive testing plant in America was built at the university in the late 1890's through a gift of the American Railway Association.¹²³ From a beginning of only 3 buildings Purdue University had grown to more than 50 buildings by 1930. Through donations and purchase the number of acres of land owned by the university increased to 4,350, valued at over \$500,000,¹²⁴ much of which is used for agricultural experiments. Enrollment for the school year 1934-1935 was 4,534.¹²⁵ The university then offered 4-year courses in agriculture; civil, chemical, electrical, and mechanical engineering; home economics; pharmacy; science; physical education; public service engineering; and engineering-law. Purdue University had in 1935 the only aviation field in the Nation owned and operated by a university. A federal weather bureau station is maintained near the 115-acre campus, and there is an agricultural experiment station operating under the Federal Department of Agriculture.¹²⁶

¹¹⁹ Indiana State Planning Board, *op. cit.*, pp. 9, 10.

¹²⁰ *Ibid.*, p. 10.

¹²¹ *Biographical Record*, *op. cit.*, p. 250.

¹²² "Building Facilities on the Agricultural Campus," *Purdue News*, VII (July 1936) no. 5, p. 12.

¹²³ *Indianapolis News*, May 21, 1927.

¹²⁴ Indiana State Board of Tax Commissioners, *Indiana State Tax Bulletin*, I (1930), no. 2.

¹²⁵ *Purdue University Bulletin*, 1934-1935, p. 1.

¹²⁶ Indiana State Planning Board, *op. cit.*, pp. 9, 10.

An act of the state legislature, passed January 20, 1826, provided that 10 per cent of the sale of lots in the county seat and of all donations to the county be set aside in a fund to establish a county library.¹²⁷ Hiram Metcalf was elected librarian of the Tippecanoe County Library—organized in 1853—and commissioned to "gather together a library and such cases, maps, charts belonging to the same and to keep the library in the Auditors office of Tippecanoe County."¹²⁸ Existing records fail to state subsequent developments in the life of this book collection. Under the management of the Lafayette School Board a public library was opened in that city in 1882. Located at Sixth and Columbia Streets, the library opened with over 7,000 volumes. Mrs. J. B. Hyde was the first librarian. Funds for its operation were provided for by a tax of 3 mills on the dollar on all city property.¹²⁹ The library was removed to 7th and North Streets in 1927,¹³⁰ in new quarters built by a donation from A. A. Wells, and by 1939 there were 59,916 volumes in the collection, serving 9,668 borrowers with a circulation of 103,885. The West Lafayette public library building was erected in 1921, and in 1939 contained 11,227 volumes, serving 2,794 borrowers.¹³¹

AGRICULTURE

In common with much of the midwest frontier, large areas of Tippecanoe County were covered with forest growth when the pioneers arrived. The most common useful trees which were found in the county by the early settlers were black and white walnut; black, white, and burr oaks; white ash; white butternut; scale bark hickory; wild cherry; sugar maple; and beech. There were also many soft maples, sycamores, cottonwoods, quaking asps. lin or basswood trees, white and slippery elms, swamp ash, and hackberry and honey locust trees.¹³²

After some of the land was cleared, early settlers began

¹²⁷ L. 1825-1826, ch. 10, sec. 6.

¹²⁸ Commissioners' Record, vol. F, p. 173, see entry 1.

¹²⁹ *Biographical Record*, *op. cit.*, p. 307.

¹³⁰ Indiana State Division of Accounting and Statistics, *Year Book of the State of Indiana* 1939, p. 414.

¹³¹ *Ibid.*, pp. 420. 422.

¹³² *Indiana Geological Report*, 1912, p. 61.

to plant small patches of land in crops. Organized efforts to promote agriculture in the county began as early as 1835, the year a meeting was ordered held in the courthouse to form an agricultural society.¹³³ It is known that the society was functioning by 1839, for county records report that John D. Smith was allowed "twenty-five dollars for the use of Tippecanoe County Agricultural Society, to be given in orders to suit society."¹³⁴

A county fair was held at Lafayette in 1852, and through the efforts of the county agricultural society the annual fair of the State Board of Agriculture was held at Lafayette the next year.¹³⁵ The southern part of the county organized an agricultural society in 1867,¹³⁶ and purchased a fairgrounds 10 miles south of the county seat. However, this location was found too remote from Lafayette and in 1871 a new Tippecanoe County Agricultural Association was incorporated and its funds used to improve a 51-acre county-owned fairground southeast of Lafayette.¹³⁷

Interest in scientific farming grew, and the county voted \$50,000 to secure the establishment of a college of agriculture at Purdue University. This was paid in five installments, the first of \$10,000 being ordered paid by the county commissioners in June 1870.¹³⁸ Two years later the grange movement reached the county, and a grange was organized at Battle Ground, followed in the next several years by 42 similar organizations. Through a system of cooperative buying the grange effected price reductions for goods purchased by farmers; the price of reapers, as an example, being reduced from \$185 to \$120. The peak of the grange movement was reached in 1872, but later its cooperative buying program was reduced and by 1888 the movement had dwindled to a few granges.¹³⁹

There were only 2,948 persons employed in agricultural pursuits in the county in 1840.¹⁴⁰ Twenty years later, there were 299,984 acres of land being farmed in the county, with

¹³³ Commissioners' Record, vol. C, p. 393, *see* entry 1.

¹³⁴ *Ibid.*, vol. D, p. 109.

¹³⁵ *Biographical Record*, *op. cit.*, pp. 253, 254.

¹³⁶ *Ibid.*, p. 254.

¹³⁷ Commissioners' Record, vol. I, pp. 454, 455, *see* entry 1.

¹³⁸ *Ibid.*, vol. H, p. 762; vol. I, p. 226, *see* entry 1.

¹³⁹ *Biographical Record*, *op. cit.*, pp. 255, 256.

¹⁴⁰ U. S. Bureau of the Census, *Sixth Census of the United States, 1840*, p. 367.

a valuation of \$8,257,600. Farm implements and machinery were valued at \$198,864, and there was raised \$1,126,764 worth of livestock.¹⁴¹ The census of 1880 showed an increase of over two and one-half millions in the valuation of farm land and an estimated value of farm produce of \$2,251,103.¹⁴²

Corn has been the principal staple crop raised in Tippecanoe County since its settlement. Wheat, oats, rye, barley, and small fruits do well.¹⁴³ The county produced 2,384,400 bushels of corn, 68,694 bushels of oats, 225,728 bushels of wheat, 93,936 bushels of potatoes, and 6,833 lbs. of tobacco in 1860.¹⁴⁴ There has never been a great amount of tobacco raised in the county because of its northern latitude. By 1880 there were 92,793 acres planted to corn, which produced 3,276,795 bushels. Wheat, the second largest crop, produced 981,937 bushels from 43,539 acres, and there were 13,708 acres of oats, which produced 414,109 bushels.¹⁴⁵

INDUSTRY

Prominent among the early industries of Tippecanoe County were gristmills, of which the first began on Wea Creek in 1827, and was operated by Joseph Hawkins.¹⁴⁶ Another mill was erected about the same time by a Mr. Waymire, and in 1828 a gristmill was built by Carr and Seirele in what is now Sheffield Township. A man named Stafford built a sawmill east of Dayton about 1829, John Sherry erected a gristmill and distillery on Flint Creek 2 years later, and George Lutz also erected a sawmill on the same stream in 1831.¹⁴⁷

The need of water by the early mills, both for power and for transportation of produce, was the chief reason for the streamside location of the county's early industries. A sawmill, paper mill, and flour mill were built southwest of Lafayette in 1840 by Daniel Yandes, and the flour mill of Hull and Spencer,¹⁴⁸ and the woolen mill of James S.

¹⁴¹ U. S. Bureau of the Census, *Eighth Census of the United States, 1860, Agriculture*, pp. 42, 43.

¹⁴² U. S. Bureau of the Census, *Tenth Census of the United States, 1880, Agriculture*, p. 114.

¹⁴³ *Biographical Record*, *op. cit.*, p. 255.

¹⁴⁴ U. S. Bureau of the Census, *Eighth Census of the United States, 1860, Agriculture*, pp. 42, 43.

¹⁴⁵ U. S. Bureau of the Census, *Tenth Census of the United States, 1880, Agriculture*, p. 137.

¹⁴⁶ De Hart, *op. cit.*, pp. 183-187.

¹⁴⁷ *Ibid.*, p. 185-187.

¹⁴⁸ *Biographical Record*, *op. cit.*, p. 262.

Hoagland began operations the same year. A year later Clark and Bartholomew erected a sawmill in Lafayette.¹⁴⁹ The opening of the Wabash and Erie Canal to Lafayette in 1840,¹⁵⁰ was the beginning of an era of industry at the county seat.

With the coming of the railroads in the 1850's¹⁵¹ industry in Tippecanoe County continued its steady growth, and continued the trend toward industrial centralization in the county seat. By 1860 there were 151 firms engaged in manufacturing in Tippecanoe County. Among the articles manufactured were agricultural implements, books, shoes, brick, carpets, carriages, cigars, clothing, kegs and barrels, firearms, flour and meal, furniture, liquors, lumber, machinery, mattresses, linseed oil, paper, meat products, printing, pumps, harness and saddles, sashes and doors, ships and boats, soap and candles, tin, copper and sheet-iron ware, trunks, wagons, and carts. These varied industries produced goods valued at \$1,632,104, with an annual labor cost of \$235,648, and employed an average of 861 men and 54 women.¹⁵² By 1880, many of the above-mentioned industries were in operation, and new enterprises included four foundries and a factory for the building and repair of railroad equipment and streetcars.¹⁵³ Industry expanded through the close of the century and during the early decades of the 1900's. In 1935, the following manufactured products were being made by Lafayette concerns: sponge-rubber products, meat products, feed, fertilizer, electric meters and transformers, automobile gears and tools, shipping tags, concrete sewer pipes, building blocks, drain-tile, strawboard and boxboard, flour, soybean oil, meal, medicine and drug supplies, wire goods, gas pumps, soap, safes and locks, structural steel, paper boxes, beer, building material, plating and enameling, sand and gravel, stokers, time controls for air conditioning, and stoker and damper controls.¹⁵⁴

¹⁴⁹ William M. Reser, "The Wabash and Erie Canal at Lafayette," *Indiana Magazine of History*, XXX (1934), 317.

¹⁵⁰ *Ibid.*, 312.

¹⁵¹ *Ibid.*, 322.

¹⁵² U. S. Bureau of the Census, *Eighth Census of the United States, 1860, Manufactures*, p. 137.

¹⁵³ U. S. Bureau of the Census, *Tenth Census of the United States, 1880, Manufactures*, p. 231.

¹⁵⁴ U. S. Bureau of the Census, *Biennial Census of Manufactures, 1937*, pt. 1, p. 1457.

JOURNALISM

The first edition of the *Lafayette Free Press and Commercial Advertiser*, the county's pioneer newspaper, appeared on September 29, 1829. In July 1841, the name of the paper was changed to the *Tippecanoe Journal and Free Press*.¹⁵⁵ The *Wabash Mercury*, established in 1833 and edited by R. B. Houston, appeared erratically, and once gave as an excuse for a delay of several weeks in delivery that "the high water in the Wabash River had prevented transportation and the publisher was unable to get supplies for the paper."¹⁵⁶ The *Lafayette Daily Journal* began publication in January, 1849 and by 1888 was, with one exception, the state's oldest continuously-published newspaper.¹⁵⁷ Mathias Peterson started the *Lafayette Advertiser* in 1841,¹⁵⁸ and this paper later changed its name to the *Lafayette Courier*. The *Sunday Leader* was established in 1872 by John Carr, and 2 years later the *Deutsch-Amerikaner*, a newspaper printed in English and German, was begun in Lafayette by Francis Johnson.¹⁵⁹ The *Lafayette Sunday Times* began in April 1879, and the *Morning Call* in December 1883.¹⁶⁰ At Lafayette the same year the *Echo*, a monthly musical magazine, began publication. The *Labor World*, published by the Knights of Labor, began April 6, 1886, and the next year the *Lafayette Morning News* and *Weekly News* were started.¹⁶¹

RELIGIOUS DEVELOPMENT

The Roman Catholic Church seems to have been the first denomination to enter what is now Tippecanoe County. Previous to 1808, all of the lands comprising the present state were under the ecclesiastical jurisdiction of the Diocese of Quebec. Missionary priests, traveling between Quebec and the French settlements of Vincennes and Kaskaskia, often halted their canoes and conducted mass at Ouiatanon, downriver from the site of Lafayette.¹⁶² Pierre Du Jaunay, a

¹⁵⁵ *Biographical Record*, op. cit., pp. 307, 308.

¹⁵⁶ Crocket, op. cit., p. 84.

¹⁵⁷ *Biographical Record*, op. cit., p. 308.

¹⁵⁸ *Ibid.*, p. 310.

¹⁵⁹ *Ibid.*, pp. 313, 315.

¹⁶⁰ *Ibid.*, p. 312.

¹⁶¹ *Ibid.*, pp. 314, 316.

¹⁶² *Ibid.*, p. 283.

Jesuit priest, was sent to Ouiatanon about 1745.¹⁶³ Although missionary priests continued to visit the county, it was not until 1843 that members of the denomination rented rooms in Lafayette to serve as a church, and in the next year built their first church in the county seat.¹⁶⁴

The first Protestant religious meetings in Tippecanoe County were held in the homes of settlers or out of doors. These services were conducted by itinerant ministers, chiefly of the Methodist or Baptist faith. The religious element of Union Township was largely composed of members of the Society of Friends, who erected their first meeting house in 1827.¹⁶⁵

The county's first Protestant church building was erected in Lafayette in 1830,¹⁶⁶ and was a small frame structure on the corner of Main and 6th Streets, called the Trinity Methodist Episcopal Church.¹⁶⁷ Methodist circuit riders conducting services in Lafayette and the county in the third decade of the century included Henry Buell, Eli Farmer, Stephen R. Beggs, James Armstrong, and John Strange.¹⁶⁸

Tippecanoe Township's first church was "Old Salem", built of hewed logs in 1836,¹⁶⁹ and used until 1851 by Methodists from both White and Tippecanoe counties. Another church of the same denomination was erected in 1840 about a half mile east of "Old Salem."¹⁷⁰ Other denominations which early in the county's history began holding religious services included the Baptists, who in 1832 met in the courthouse and in school buildings, and built a church in 1844;¹⁷¹ the Presbyterians, organized in 1828, but not building a church for 30 years; the Universalists, organized in 1838, and completing a church building in 1852; and the Church of Christ, organized in Lafayette in 1839, and moving into their own church 6 years later. The United Brethren Church erected a church in the year of its organization (1852) in Lafayette, 2 years after the German Lutheran Congregation organized and com-

¹⁶³ Herman Alerding, *The Diocese of Vincennes*, p. 58.

¹⁶⁴ *Biographical Record*, op. cit., p. 283.

¹⁶⁵ De Hart, op. cit., pp. 187-189.

¹⁶⁶ Crockett, op. cit., p. 93.

¹⁶⁷ *Biographical Record*, op. cit., pp. 271, 272.

¹⁶⁸ *Ibid.*, p. 272.

¹⁶⁹ De Hart, op. cit., p. 177.

¹⁷⁰ *Ibid.*, p. 178.

¹⁷¹ *Biographical Record*, op. cit., p. 276.

pleted a building. The Swedish Evangelical Lutheran Church was organized in July 1870,¹⁷² occupying their own house of worship the following year. Grace Church, home of the Protestant Episcopal denomination in Lafayette, was organized and housed about the same time.¹⁷³

POLITICAL TRENDS

Following the date of its organization, Tippecanoe County was the political battleground of many of the early parties, notably the Democrats and Whigs. Important political meetings were held in 1840 and in the years following at the Tippecanoe Battleground. Among the speakers to address crowds there were Stephen A. Douglas, Henry Clay, and James G. Blaine.¹⁷⁴

The county showed its political independence in 1854 by electing a fusion ticket composed of temperance, anti-slavery, Know-Nothing, and Whig elements—by a 2 to 1 majority.¹⁷⁵ However, 4 years later the county gave Oliver P. Morton, Republican candidate for governor, a close majority of its gubernatorial vote. In the election of 1860 Tippecanoe County was Republican by about one thousand votes,¹⁷⁶ and the county has since been considered to have a Republican majority.

TIPPECANOE COUNTY TODAY

That the population of the county has continued to increase during the last decade is attested by the fact that the Federal census of 1940 reported an increase of 7.7% to 51,218 persons, over the previous enumeration 10 years earlier.¹⁷⁷ The population of the county in 1930 was 47,535, of which number 23,523 were males and 24,012 were females. Of the 47,080 white people of the county, 45,367 were of native parentage, 15 of foreign-born or mixed parentage, and

¹⁷² *Ibid.*, p. 283.

¹⁷³ *Ibid.*, p. 270.

¹⁷⁴ Alva O. Reser, "No Monument Grander than Nature's Tribute," *Lafayette Weekly Journal*, June 24, 1904.

¹⁷⁵ Esarey, *op. cit.*, II, 65.

¹⁷⁶ *Ibid.*

¹⁷⁷ U. S. Bureau of the Census, *Sixteenth Census of the United States, 1940, Preliminary Population Bulletin*, no. 47.

1,698 foreign-born. There were 455 negroes. The urban population numbered 37,411 and the rural population 10,124.¹⁷⁸

There were 2,145 farms in the county in 1930; 825 operated by the owner, 361 by part owners, 30 by managers, 122 by cash tenants, and 807 by tenants of some other type. The average farm size was 59.4 acres.¹⁷⁹ The total value of the farm crop in 1929 was \$3,791,235; total value of livestock products, \$2,854,203; and total value of livestock on hand, \$2,382,087. The total value of all farms of the county, including buildings, was \$28,032,339; of buildings alone, \$3,514,070; of farm dwellings, \$3,829,235; and of farm implements and machinery, \$2,254,064.¹⁸⁰ Statistics compiled by assessors as of March 1939 show that in 1938 there were 1,746 farms in the county with a total acreage of 257,486, and of this 74,774 acres were in corn, 28,962 in oats, 26,733 in wheat, 20,967 in soybeans, and 12,565 in clover and timothy hay.¹⁸¹

The Federal Government, through the Agricultural Adjustment Administration, has since 1933 made loans to Tippecanoe County farmers on their corn crop, and since 1938 on the wheat crop. Corn loans for 1939 in Tippecanoe County were made to 314 farmers on 364,280 bushels at a rate of 57 cents per bushel. One hundred and twenty-three farmers of the county received loans on 58,466 bushels of wheat at a rate of 70 to 71 cents per bushel.¹⁸²

For the year 1929 the 57 manufacturing establishments of the county employed 2,852 people, paid \$3,692,177 in wages, and manufactured products valued at \$9,126,050.¹⁸³ One of the county's most recent additions to its manufacturing enterprises was a large aluminum products company which began operations southeast of Lafayette in 1937.¹⁸⁴

¹⁷⁸ U. S. Bureau of the Census, *Fifteenth Census of the United States, 1930, Population*, III, 741.

¹⁷⁹ U. S. Bureau of the Census, *Fifteenth Census of the United States, 1930, Agriculture*, II, 549.

¹⁸⁰ *Ibid.*, p. 502.

¹⁸¹ U. S. Department of Agriculture and Purdue University Agricultural Experiment Station, *Indiana Crops and Livestock*, 4.

¹⁸² Information obtained from Agricultural Adjustment Administration (March 12, 1941), by Harry Graves.

¹⁸³ U. S. Bureau of the Census, *Fifteenth Census of the United States, 1930, Manufactures*, III, 163.

¹⁸⁴ *Indianapolis Star*, April 12, 1937.

The total sales for the 595 retail establishments of Tippecanoe County in 1929 amounted to \$22,972,000. Seventy-seven percent of this business was done by the 489 independent stores, 13 percent by the 46 chain stores, and 10 percent by the 60 stores of other varieties.¹⁸⁵ Total sales of the county's 59 wholesale establishments in 1929 was \$9,758,094, and the establishments employed 219 persons and paid wages of \$319,162.¹⁸⁶

The county highway system in 1936 consisted of 850½ miles of improved roads, of which 50 miles were of black top, 20 miles of concrete, and 780½ miles of gravel construction. One federal and five state highways cross the county and four of these roads pass through the county seat.¹⁸⁷

In the school year 1940-41, there were 2 senior high schools in the county, 12 combined elementary and high schools, 5 elementary schools which employed from 2 to 7 teachers, and 9 elementary schools which employed 8 or more teachers.¹⁸⁸ The total public school enrollment for the county was 8,105.¹⁸⁹ During the year 1939-1940 Purdue University enrolled 7,242 students, of whom 4,955 were from Indiana.¹⁹⁰

The recreational facilities of the county are largely in or near Lafayette. There are 3 public parks in the county seat; Columbian Park, a 41-acre tract with a zoological garden housing nearly 100 animals; Murdock Park, a 37½-acre tract of woods and hills, and containing a baseball diamond and picnic grounds; and Shamrock Park of 11½ acres with a baseball field and playground.¹⁹¹ There are 3 golf courses located near Lafayette and fishing in the Wabash and Tippecanoe Rivers is a popular sport.¹⁹²

As a result of the Nation-wide depression, the system of relieving distress through the county poor farm and by direct

¹⁸⁵ U. S. Bureau of the Census, *Fifteenth Census of the United States, 1930, Retail Sales Distribution*, I, pt. 2, 710.

¹⁸⁶ U. S. Bureau of the Census, *Fifteenth Census of the United States, 1930, Wholesale Distribution*, II, 20.

¹⁸⁷ Indiana State Planning Board, *op. cit.*, p. 11.

¹⁸⁸ Indiana State Department of Education *Indiana School Directory, 1940-1941*, p. 332.

¹⁸⁹ *Ibid.*, pp. 277-281.

¹⁹⁰ Indiana State Division of Accounting and Statistics, *Year Book of the State of Indiana, 1940*, p. 1043.

¹⁹¹ Indiana State Planning Board, *op. cit.*, p. 8.

¹⁹² *Ibid.*, p. 8.

relief from the township trustees was unable to care for all the needy, and in 1933 the federal, state, and county governments began to supplement those facilities with programs of work relief and social welfare payments. Tippecanoe County has shared in Public Works Administration and Work Projects Administration operations and a large Civilian Conservation Corps camp is located north of Lafayette near the Indiana State Soldiers' and Sailors' Home.

2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

LEGAL STATUS OF THE COUNTY

The county in Indiana is an involuntary corporation, sometimes called a quasi corporation, organized as a political subdivision of the state, solely for governmental purposes. It is a "municipal corporation" and a "municipality" within the meaning of several statutes using those terms. It is an instrumentality of government, exercising the powers delegated by the state and acting for the state. County officers are agents of the state. The authority of the county and its officers and agents is limited to that expressly or impliedly conferred on them by the Indiana General Assembly. Except as limited by the state constitution, the general assembly has full power to create, modify, and abolish counties, and to prescribe their powers, governmental organization, and liabilities.¹

¹ Gavin v. Board of County Comrs., 104 Ind. 201, 3 N. E. 846 (1885); State *ex rel.* Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909); Applegate v. Pettijohn, 205 Ind. 122, 125, 185 N. E. 911 (1933); McDermott v. Board of County Comrs., 60 Ind. App. 209, 110 N. E. 237 (1915); Buck v. Indiana Constr. Co., 79 Ind. App. 329, 138 N. E. 356 (1923).

"Municipal corporation." Acts 1933, ch. 237, sec. 2 (repealed by Acts 1937, ch. 119, sec. 11). Acts 1929; Burns 60-1102; Baldwin 11392-2. Acts 1933; Burns 61-906; Baldwin 13853-6. Acts 1937; Burns, 1940 suppl., 61-526, 61-622(d), 64-308; Baldwin, 1937 suppl., 12849-2, 13844-43(d), 15897-2.

"Municipality." Acts 1909; Burns 60-219; Baldwin 13870. Acts 1917; Burns 60-229; Baldwin 13880. Acts 1923; Burns 60-236; Baldwin 14091. Acts 1937; Burns, 1940 suppl., 61-509(a); Baldwin, 1937 suppl., 12489-4(a).

"Offices created by the legislature can be abolished by the legislature. The power that creates can destroy. The creator is greater than the creature. The term of an office may be shortened, the duties of the office increased, and the compensation lessened, by the legislative will." Rogers v. Calumet National Bank, 213 Ind. 576, 585, 12 N. E. (2d) 261 (1938).

Before the adoption of the Constitution of 1851, the legislature had full power to enact local laws concerning county matters, and many such laws were enacted; but since 1851 there have been constitutional provisions prohibiting the enactment of local laws concerning several specified subjects affecting county organization and functions.² The general assembly often passes laws applicable to counties and cities having a specified population and to counties containing cities of a specified population. Such laws are sometimes upheld³ and sometimes held void as being in conflict with these constitutional provisions.⁴ Several laws authorize the appointment of county officials but do not require such appointment.

There are 92 counties in Indiana. Knox County, the oldest, was created by proclamation of the Governor of the Northwest Territory on June 20, 1790.⁵ The counties of Clark⁶ and Dearborn⁷ were created on February 3, 1801 and March 7, 1803, respectively, by proclamation of the Governor of Indiana Territory. The counties of Franklin,⁸ Gibson,⁹ Harrison,¹⁰ Jackson,¹¹ Jefferson,¹² Orange,¹³ Perry,¹⁴

² Const. 1851, art. 4, secs. 22, 23.

³ State *ex rel.* Hargrave v. Reitz, 62 Ind. 159 (1878); Campbell v. Indianapolis, 155 Ind. 186, 57 N. E. 920 (1900); Bullock v. Robison, 176 Ind. 198, 93 N. E. 998 (1911); Wayne Twp. v. Brown, 205 Ind. 437, 186 N. E. 841 (1933); Meara v. Brindley, 207 Ind. 657, 194 N. E. 351 (1935); Groves v. Board of County Comrs., 209 Ind. 371, 199 N. E. 137 (1936); Crowe v. Board of County Comrs., 210 Ind. 404, 3 N. E. (2d) 76 (1936); Board of County Comrs., v. Crowe, 214 Ind. 446, 14 N. E. (2d) 907 (1938).

⁴ Campbell v. Indianapolis, 155 Ind. 186, 57 N. E. 920 (1900); Rushville v. Hayes, 162 Ind. 193, 70 N. E. 134 (1904); Bumb v. Evansville, 168 Ind. 272, 80 N. E. 625 (1907); Kraus v. Lehman, 170 Ind. 408, 83 N. E. 714 (1908); Bullock v. Robison, 176 Ind. 198, 93 N. E. 998 (1911); Boberg v. Harlem, 194 Ind. 310, 142 N. E. 705 (1924); Heffelfinger v. Ft. Wayne, 196 Ind. 689, 149 N. E. 555 (1925); Heckler v. Conter, 206 Ind. 376, 187 N. E. 878 (1933); Crowe v. Board of County Comrs., 210 Ind. 404, 3 N. E. (2d) 76 (1936).

⁵ William Henry Smith, editor, *The St. Clair Papers* (Cincinnati, 1882), II, 166 note. George Pence and Nellie C. Armstrong, *Indiana Boundaries: Territory, State and County* (1933), 21, 514.

⁶ Pence and Armstrong, *op. cit.*, 256.

⁷ *Ibid.*, 310.

⁸ Acts 1810, ch. 6.

⁹ Acts 1813, ch. 23.

¹⁰ Acts 1808, ch. 1.

¹¹ Acts 1815, ch. 1.

¹² Acts 1810, ch. 2.

¹³ Acts 1815, ch. 12.

¹⁴ Acts 1814, ch. 7.

Posey,¹⁵ Switzerland,¹⁶ Warrick,¹⁷ Washington,¹⁸ and Wayne¹⁹ were created by special acts of the General Assembly of Indiana Territory. These 15 counties are all mentioned in the Constitution of 1816.²⁰ The remaining 77 counties were created by special acts of the General Assembly of the State of Indiana.

The Constitution of 1816 provided: "The General Assembly, when they lay off any new county, shall not reduce the old county, or counties, from which the same shall be taken to a less content than four hundred square miles."²¹ The Constitution of 1816 further provided that the legislature, "at the time they lay off a new county," should provide certain funds for a public library.²² The Constitution of 1851 provides: "No county shall be reduced to an area less than four hundred square miles; nor shall any county, under that area, be further reduced."²³ The Constitution of 1851 further provides: "The Senate shall not exceed fifty, nor the House of Representatives one hundred members; and they shall be chosen by the electors of the respective counties or districts, into which the State may, from time to time, be divided."²⁴ The Constitution of 1851 provides that a new county may be created out of the counties of Perry and Spencer if approved by election of the voters in those counties in such manner as may be prescribed by law;²⁵ but no such new county has been created. These are all of the constitutional provisions concerning the creation of counties in Indiana.

The legislature passed a general law in 1861 providing for the creation of new counties by election in the affected old counties after petition has been presented to the board of commissioners in such counties.²⁶ No new counties have been created since the enactment of this law.

¹⁵ *Ibid.*

¹⁶ *Ibid.*, ch. 9.

¹⁷ Acts 1813, ch. 23.

¹⁸ Acts 1813-14, ch. 10.

¹⁹ Acts 1810, ch. 1.

²⁰ Const. 1816, art. 12, sec. 9.

²¹ *Ibid.*, art. 11, sec. 12.

²² *Ibid.*, art. 9, sec. 5.

²³ Const. 1851, art. 15, sec. 7.

²⁴ *Ibid.*, art. 4, sec. 2.

²⁵ *Ibid.*, schedule, par. 15.

²⁶ Acts 1861; Burns 26-301 to 26-310; Baldwin 5044 to 5053.

STRUCTURAL DEVELOPMENT OF COUNTY GOVERNMENT

From the organization of Tippecanoe County in 1826,²⁷ the following officers, boards, and courts (arranged alphabetically in three groups) have existed in the county:

OFFICERS

- Appraiser (1841-72)²⁸
- Auditor (1841 to date)²⁹
- Clerk of the circuit court (1826 to date)³⁰
- Commissioner of threepercent fund (1833-43)³¹
- Coroner (1826 to date)³²
- County agent (1826-52)³³
- County agricultural agent (1917 to date)³⁴
- County assessor (1826-52, 1872-75, 1891 to date)³⁵
- County director of public welfare (1936 to date)³⁶
- County health commissioner (1909-38)³⁷
- County health officer (1881-1909, 1938 to date)³⁸
- County highway superintendent (1913-33)³⁹
- County highway supervisor (1933 to date)⁴⁰
- County inspector of weights and measures (1929 to date)⁴¹
- County liquor agent (1853-59)⁴²
- County poundkeeper (1826-53)⁴³
- County school commissioner (1829-49)⁴⁴
- County school examiner (1834-73)⁴⁵

²⁷ Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act).

²⁸ See the essay entitled "County Assessor."

²⁹ See the essay entitled "Auditor."

³⁰ See the essay entitled "Clerk of the Circuit Court."

³¹ See the essay entitled "Commissioner of Three Percent Fund (1833-43)."

³² See the essay entitled "Coroner."

³³ See the essay entitled "County Agent (1826-52)."

³⁴ See the essay entitled "County Agricultural Agent."

³⁵ See the essay entitled "County Assessor."

³⁶ See the essay entitled "County Department of Public Welfare."

³⁷ See the essay entitled "County Health Officer."

³⁸ *Ibid.*

³⁹ See the essay entitled "County Highway Supervisor."

⁴⁰ *Ibid.*

⁴¹ See the essay entitled "County Inspector of Weights and Measures."

⁴² See the essay entitled "County Liquor Agent (1855-59)."

⁴³ See the essay entitled "County Poundkeeper (1826-53)."

⁴⁴ See the essay entitled "County School Commissioner (1829-49)."

⁴⁵ See the essay entitled "County Superintendent of Schools."

County superintendent (1873-1927)⁴⁶
 County superintendent of schools (1927 to date)⁴⁷
 District attorney (1853-73)⁴⁸
 District road supervisors (1826-79)⁴⁹
 Home demonstration agent (1936 to date)⁵⁰
 Jury commissioners (1881 to date)⁵¹
 Lister (1826-41)⁵²
 Master commissioner (1853 to date)⁵³
 Master in chancery (1831-53)⁵⁴
 Probation officer (1929 to date)⁵⁵
 Prosecuting attorney (1826 to date)⁵⁶
 Prosecuting attorney, criminal circuit court (1867-75)⁵⁷
 Recorder (1826 to date)⁵⁸
 Registration clerks (1911-17)⁵⁹
 Registration inspector (1911-17)⁶⁰
 Registration officer (1889-92, 1933 to date)⁶¹
 Sheriff (1826 to date)⁶²
 Surplus revenue agent (1837-43)⁶³
 Surveyor (1826 to date)⁶⁴
 Tax collector (1827-41)⁶⁵
 Treasurer (1826 to date)⁶⁶
 Trustee of public seminary (1830-53)⁶⁷

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ See the essay entitled "District Attorney (1853-73)."

⁴⁹ See the essay entitled "County Highway Supervisor."

⁵⁰ See the essay entitled "Home Demonstration Agent."

⁵¹ See the essay entitled "Jury Commissioners."

⁵² See the essay entitled "County Assessor."

⁵³ See the essay entitled "Master Commissioner."

⁵⁴ *Ibid.*

⁵⁵ See the essay entitled "Probation Officer."

⁵⁶ See the essay entitled "Prosecuting Attorney."

⁵⁷ See the essay entitled "Prosecuting Attorney, Criminal Circuit Court (1867-75)."

⁵⁸ See the essay entitled "Recorder."

⁵⁹ See the essay entitled "Registration Officer."

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² See the essay entitled "Sheriff."

⁶³ See the essay entitled "Surplus Revenue Agent (1837-43)."

⁶⁴ See the essay entitled "Surveyor."

⁶⁵ See the essay entitled "Tax Collector (1827-41)."

⁶⁶ See the essay entitled "Treasurer."

⁶⁷ See the essay entitled "Trustee of Public Seminary (1830-53)."

BOARDS

- Board of children's guardians (1901-36)⁶⁸
- Board of commissioners (1829 to date)⁶⁹
- Board of county charities and corrections (1905-36)⁷⁰
- Board of equalization (1826-90)⁷¹
- Board of finance (1907 to date)⁷²
- Board of justices (1826-29)⁷³
- Board of primary election commissioners (1907 to date)⁷⁴
- Board of registration commissioners (1917-19)⁷⁵
- Board of turnpike directors (1879-1913)⁷⁶
- Commission of public records (1939 to date)⁷⁷
- County board of canvassers (1843 to date)⁷⁸
- County board of education (1873 to date)⁷⁹
- County board of election commissioners (1889 to date)⁸⁰
- County board of health (1881-1909)⁸¹
- County board of public welfare (1936 to date)⁸²
- County board of review (1891 to date)⁸³
- County board of tax adjustment (1932 to date)⁸⁴
- County council (1899 to date)⁸⁵
- County department of public welfare (1936 to date)⁸⁶
- County school fund board (1935 to date)⁸⁷
- Precinct registration board (1911-17, 1919-27)⁸⁸

⁶⁸ See the essay entitled "Board of Children's Guardians (1901-36)."

⁶⁹ See the essay entitled "Board of Commissioners."

⁷⁰ See the essay entitled "Board of County Charities and Corrections (1905-36)."

⁷¹ See the essay entitled "County Board of Review."

⁷² See the essay entitled "Board of Finance."

⁷³ See the essay entitled "Board of Commissioners."

⁷⁴ See the essay entitled "Board of Primary Election Commissioners."

⁷⁵ See the essay entitled "Registration Officer."

⁷⁶ See the essays entitled "Board of Commissioners" and "County Highway Supervisor."

⁷⁷ See the essay entitled "Commission of Public Records."

⁷⁸ See the essay entitled "County Board of Canvassers."

⁷⁹ See the essay entitled "County Board of Education."

⁸⁰ See the essay entitled "County Board of Election Commissioners."

⁸¹ See the essay entitled "County Health Officer."

⁸² See the essay entitled "County Department of Public Welfare."

⁸³ See the essay entitled "County Board of Review."

⁸⁴ See the essay entitled "County Board of Tax Adjustment."

⁸⁵ See the essay entitled "County Council."

⁸⁶ See the essay entitled "County Department of Public Welfare."

⁸⁷ See the essay entitled "County School Fund Board."

⁸⁸ See the essay entitled "Registration Officer."

Township board of registry (1867-69)⁸⁹

COURTS

Circuit court (1826 to date)⁹⁰

Court of common pleas (1848-52, 1853-73)⁹¹

Court of conciliation (1853-65)⁹²

Criminal circuit court (1867-75)⁹³

Probate court (1829-53)⁹⁴

Superior court (1875 to date)⁹⁵ 1157807

In the early days of the county few public officials were needed. The sheriff preserved order generally, took part in conducting elections, and executed the process and orders of the courts. The clerk of the circuit court acted as ministerial officer of the courts, served as clerk of the board doing county business, took part in elections, county finance, and taxation, and was in general a "county clerk"—a name by which he is often called now. The duties of the coroner, prosecuting attorney, recorder, surveyor, and treasurer were similar to their present duties except that taxes were collected by a county tax collector (instead of the treasurer) from 1826 until 1841. County business was transacted by the board of justices (composed of all the justices of the peace in the county) from 1826 until 1829, and by the board of commissioners (composed of three county commissioners) from 1829 until 1899, and by the board of commissioners (composed of three county commissioners) and the county council (composed of seven councilmen) since 1899. The board doing county business had charge of the acquisition, use, and disposition of county property, constructed public buildings, levied taxes, issued licenses, established and constructed roads and bridges, allowed claims against the county, employed several minor public officials, and provided for poor relief. The county had one court from 1826 until 1829, two from 1829 until 1848, three from 1848 until 1865, two from 1865 until 1867, three from 1867 until 1873, and two from 1873 to the present time.

⁸⁹ *Ibid.*

⁹⁰ See the essay entitled "Circuit Court."

⁹¹ See the essays entitled "Court of Common Pleas (1848-52)" and "Court of Common Pleas (1853-73)."

⁹² See the essay entitled "Court of Conciliation (1853-65)."

⁹³ See the essay entitled "Criminal Circuit Court (1867-75)."

⁹⁴ See the essay entitled "Probate Court (1829-53)."

⁹⁵ See the essay entitled "Superior Court."

As a result of increased property valuations and transfers, broadening of the scope of commercial enterprises and transactions, a constant growth in population, and improvements in transportation facilities, taxation and county finance gradually grew from a simple form to a complex form requiring additional public officials. The office of the auditor (the financial agent of the county) was created in 1841 to take over many duties of the clerk of the circuit court. The first tax law for the support of schools was passed in 1849. Since the adoption of the Constitution of 1851 the public school facilities have steadily improved. In 1899 the "County Reform Law" was enacted, transferring to the newly created county council many duties concerning taxation and finance previously performed by the board of commissioners. In recent years public health service and public welfare assistance have become important functions of the county and its officials.

GENERAL ADMINISTRATION

The general administrative control of county matters is vested in the board of commissioners and the county council.⁹⁶

CONTRACTS

The board of commissioners, as the general governing body of the county, is the agency entrusted with the making of contracts for the purchase of materials and supplies for all county offices, and for the construction of county buildings and other public improvements.⁹⁷ The board cannot bind the county by any contract which is beyond the scope of its powers.⁹⁸ While contracts made by the board are ordinarily in writing, the board may, in certain cases, bind the county by oral contracts.⁹⁹

Though the statutes prescribing the methods of letting

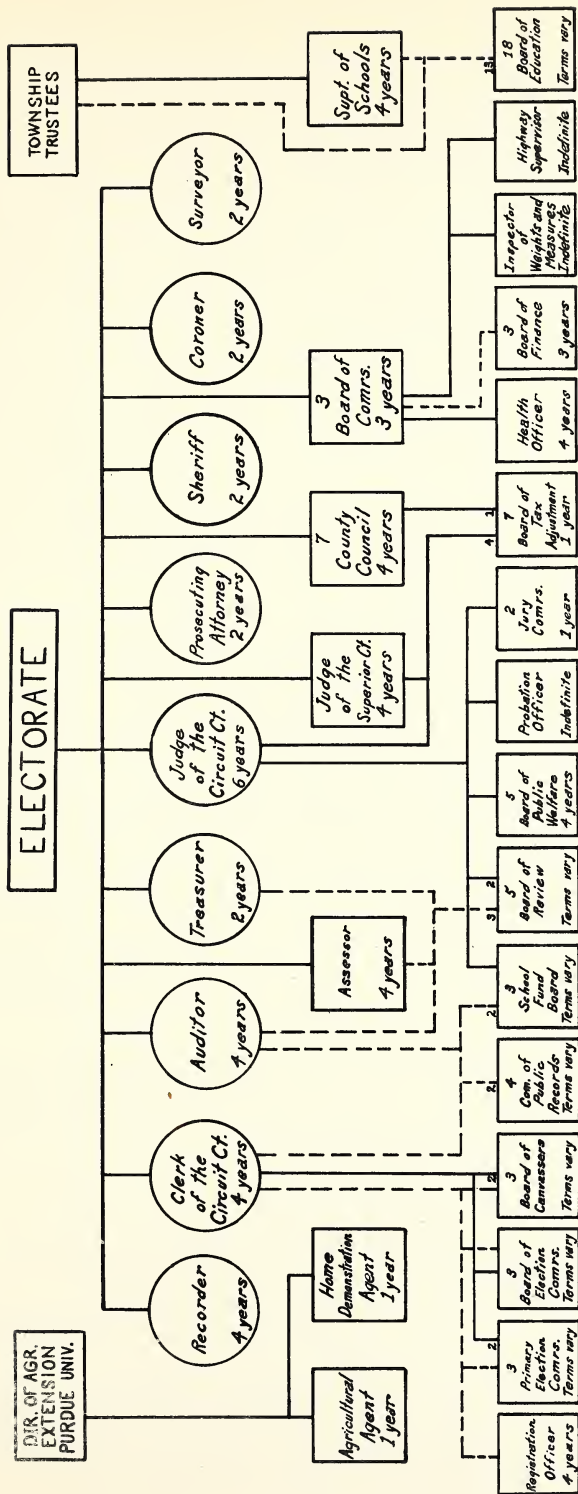
⁹⁶ Many duties of these boards are discussed specifically under appropriate headings of this essay. See also the essays entitled "Board of Commissioners" and "County Council."

⁹⁷ Acts 1899, 1903, 1933; Burns 26-536, 26-537; Baldwin 5401, 5402. Acts 1907; Burns 25-2001 to 26-2009; Baldwin 5100 to 5108. Acts 1913, 1929, 1933; Burns 53-101 to 53-106; Baldwin 14079 to 14083.

Use of prison-made goods. *Opinions of the Attorney General of Indiana, 1939* (Indianapolis, 1940), 98.

⁹⁸ *Hight v. Board of County Comrs.*, 68 Ind. 575, 577 (1879); *Driftwood Valley Turnpike Co. v. Board of County Comrs.*, 72 Ind. 226 (1880); *Board of County Comrs. v. Bradford*, 72 Ind. 455 (1880).

⁹⁹ *McCabe v. Board of County Comrs.*, 46 Ind. 380 (1874); *Board of County Comrs. v. Ritter*, 90 Ind. 362 (1883).



Commission of Public Records also includes: the judge of the circuit court, and the president of the board of commissioners.

Board of Tax Adjustment also includes: the Mayor of Lafayette or his appointee, and a member of the county board of education.

Board of Education also includes: the president of the school board in each city and town in the county (4).

*Circles - constitutional officers.
Squares - statutory officers.
Figures - number of members
Solid lines - elected or appointed.
Broken lines - ex officio.*

CHART OF TIPPECANOE COUNTY GOVERNMENTAL ORGANIZATION, 1941

contracts vary in detail, their general features are fairly uniform. The board is usually required to prepare specifications of commodities to be purchased or work to be performed, together with plans, drawings, or models, if necessary or desirable, and to place these on file in the auditor's office for public inspection. Notice is then given by publication in newspapers of general circulation that the specifications are on file for examination and that sealed bids will be received up to a certain date. The board, after examination of the bids submitted, is required to award the contract to the "lowest responsible bidder," or, in some instances, the "lowest and best bidder."¹⁰⁰ The right is usually reserved to the board, however, to reject any and all bids, if they are unsatisfactory, and readvertise for new bids. Contracts cannot be made unless money has previously been appropriated by the county council for the particular purpose involved.¹⁰¹

As a general rule, the time for performance of a contract may extend beyond the official terms of the county commissioners, if the contract is made in good faith.¹⁰² A contract employing an attorney is an exception to this rule.¹⁰³

ACTIONS

Ordinarily an action for or against the county is brought by or against the board of commissioners.¹⁰⁴ An action to recover money from the county cannot be maintained until a claim therefor has been presented to the board of commissioners and disallowed in whole or part; but the complaint in such suit need not allege such presentation and disallowance, this being a matter of defense.¹⁰⁵ If the allowance

¹⁰⁰ The courts have held that provisions of this nature vest some discretion in the board in determining the bidder to whom the contract shall be awarded. *Ness v. Board of County Comrs.*, 178 Ind. 221, 98 N. E. 33 (1912); *Eigenmann v. Board of County Comrs.*, 53 Ind. App. 1, 101 N. E. 38 (1913).

¹⁰¹ Acts 1889; Burns 26-525, 26-527; Baldwin 5389, 5391.

¹⁰² *Board of County Comrs. v. Shields*, 130 Ind. 6, 29 N. E. 385 (1891); *Jessup v. Hinchman*, 77 Ind. App. 460, 133 N. E. 853 (1922).

¹⁰³ *Board of County Comrs. v. Taylor*, 123 Ind. 148, 23 N. E. 752 (1890).

¹⁰⁴ 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220. *Shilling v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

¹⁰⁵ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. *Bass Foundry & Mach. Works v. Board of County Comrs.*, 115 Ind. 234, 17 N. E. 593 (1888); *Board of County Comrs. v. Tichenor*, 129 Ind. 562, 29 N. E. 32 (1891); *Mueller v. Board of County Comrs.*, 73 Ind. App. 196, 127 N. E. 15 (1920).

of a claim is illegal, unwarranted, or unauthorized, the board of commissioners may sue to recover from the payee the amount paid. If the board does not bring such suit within 60 days after such allowance, any taxpayer may demand such suit; and if such demand is refused, the taxpayer may sue for the county.¹⁰⁶ If money is illegally paid out of the county treasury, suit to recover the same from the payee may be maintained in the name of the state on the relation of the board of commissioners or the officer making disbursement. If such suit is not brought within 30 days, any citizen or taxpayer may make written demand on the board of commissioners to bring such suit; and if the board fails or refuses to do so, he may bring suit in the name of the state on his own relation.¹⁰⁷

The board of commissioners, as relator, may sue, in the name of the state, on official bonds to recover county funds.¹⁰⁸ The auditor, as relator, may sue, in the name of the state, to recover money owing to the county.¹⁰⁹

The treasurer sues in his name, as treasurer, to collect property taxes.¹¹⁰ Suit to collect inheritance taxes is brought in the name of the county.¹¹¹ After a claim therefor has been disallowed by the board of commissioners, the taxpayer may sue the board of commissioners for a refund of taxes illegally assessed or collected.¹¹²

Land needed by the county for public buildings,¹¹³ highways, bridges, culverts,¹¹⁴ drainage, sewers,¹¹⁵ or airports¹¹⁶

¹⁰⁶ Acts 1897; Burns 26-811; Baldwin 5262. *Sudbury v. Board of County Comrs.*, 157 Ind. 446, 62 N. E. 45 (1901).

¹⁰⁷ Acts 1899; Burns 26-545; Baldwin 5410.

¹⁰⁸ Acts 1881 (Spec. Sess.); Burns 2-203; Baldwin 18. *Graham v. State ex rel. Board of County Comrs.*, 66 Ind. 386 (1879); *Shilling v. State ex rel. Board of County Comrs.*, 158 Ind. 185, 62 N. E. 49 (1901).

¹⁰⁹ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Vanarsdall v. State ex rel. Watson*, 65 Ind. 176 (1879); *Demarest v. Holdeman*, 157 Ind. 467, 62 N. E. 17 (1901).

¹¹⁰ Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

¹¹¹ Acts 1931; Burns 6-2415; Baldwin 15953.

¹¹² Acts 1919; Burns 64-2819; Baldwin 15881. Acts 1923; Burns 64-2824; Baldwin 15884. *Cody v. Board of County Comrs.*, 204 Ind. 87, 183 N. E. 404 (1932); *Board of County Comrs. v. Millikan*, 207 Ind. 142, 190 N. E. 185 (1934).

¹¹³ Acts 1899; Burns 26-2101; Baldwin 5109.

¹¹⁴ Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1940 suppl., 36-711; Baldwin, 1935 suppl., 8861-1.

¹¹⁵ Acts 1937; Burns, 1940 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

¹¹⁶ Acts 1920 (Spec. Sess.); Burns 14-302; Baldwin 4022.

may be acquired by the county under its power of eminent domain, on payment of the value and damages fixed by the court in condemnation proceedings.

The action of mandamus may be brought against any county officer to compel the performance of any act which the law specifically enjoins, or any duty resulting from his office or trust.¹¹⁷ For example, mandamus lies to compel: The auditor to draw warrants on the county treasurer;¹¹⁸ the board of commissioners to take action on claims that have been properly presented,¹¹⁹ to approve official bonds,¹²⁰ and to repair or rebuild bridges;¹²¹ and the county council to make appropriations.¹²²

In some instances a county officer can be enjoined from acting illegally. Some of the acts prevented by injunction are: Collection of illegal taxes;¹²³ illegal issuance of licenses;¹²⁴ doing of illegal acts that would increase taxation;¹²⁵ payment of illegal claims;¹²⁶ and making an illegal contract.¹²⁷

The county is not liable for damages resulting from the acts or omissions of its officers, except where such liability is imposed or permitted by statute.¹²⁸

Failure of the county council to make appropriation for the debt or demand constituting the subject matter of the suit does not prevent maintenance of the suit or recovery of judgment.¹²⁹ No judgment against a county is enforceable except out of moneys appropriated by the county council for

¹¹⁷ Acts 1881 (Spec. Sess.), 1911; Burns 3-2202; Baldwin 1091.

¹¹⁸ Gill v. State *ex rel.* Board of County Comrs., 72 Ind. 266 (1880).

¹¹⁹ Board of County Comrs. v. State *ex rel.* Reed, 179 Ind. 644, 102 N. E. 97 (1913).

¹²⁰ State *ex rel.* Taylor v. Board of County Comrs., 124 Ind. 554, 25 N. E. 10 (1890).

¹²¹ State *ex rel.* Roundtree v. Board of County Comrs., 80 Ind. 478 (1881).

¹²² Shelby County Council v. State *ex rel.* School City of Shelbyville, 155 Ind. 216, 57 N. E. 712 (1900).

¹²³ Hobbs v. Board of County Comrs., 103 Ind. 575, 3 N. E. 263 (1885).

¹²⁴ Marriage license. Sweigart v. State, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

¹²⁵ State *ex rel.* Davis v. Board of County Comrs., 165 Ind. 262, 74 N. E. 1091 (1905).

¹²⁶ Warren Agri. Joint Stock Co. v. Barr, 55 Ind. 30 (1876). But see Bentley v. Board of County Comrs., 102 Ind. App. 533, 200 N. E. 499 (1936).

¹²⁷ Farris v. Jones, 112 Ind. 498, 14 N. E. 484 (1887).

¹²⁸ State *ex rel.* v. Board of County Comrs. v. Board of County Comrs., 170 Ind. 595, 608, 85 N. E. 513 (1908).

¹²⁹ Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. Pike Civil Twp., 168 Ind. 535, 81 N. E. 489 (1907).

that purpose; but, by mandamus proceedings (against the county council, board of commissioners, and auditor), the county council may be compelled to make such appropriation.¹³⁰

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all suits in which the county may be interested or involved,¹³¹ including suits to collect taxes and tax penalties¹³² and suits against officers or on their bonds.¹³³ The prosecuting attorney must make a report to the board of commissioners each month showing the causes in which he appeared in person or by deputy.¹³⁴

RECORDATION

The recordation of deeds, mortgages, plats, and other private documents for purposes of preservation and public notice is a most important function of the county, since commerce and titles to property are directly affected thereby.¹³⁵ To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,¹³⁶ and the intangible tax thereon (if any) must be paid.¹³⁷ No conveyance of land can be recorded by the recorder until

¹³⁰ Acts 1899; Burns 26-528; Baldwin 5392.

Formerly the public property of the county was subject to execution to satisfy such judgment. 2 Rev. Stat. 1852; Burns 26-803; Baldwin 5253.

¹³¹ 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

¹³² Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1937; Burns, 1940 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-1319, 64-1519, 64-2208; Baldwin 15576, 15633, 15723, 15773, 15815. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933, 1937; Burns, 1940 suppl., 64-2628; Baldwin, 1937 suppl., 16009.

¹³³ Acts 1917; Burns 60-227; Baldwin 13878.

¹³⁴ Acts 1933; Burns 49-2695; Baldwin 7550.

¹³⁵ Acts 1935; Burns, 1940 suppl., 51-504; Baldwin, 1935 suppl., 13227-4. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Acts 1897; Burns 56-120; Acts 1877; Burns 56-716; Baldwin 998.

Right to rely on record of mortgage. Vincennes Savings and Loan Assn. v. St. John, 213 Ind. 171, 12 N. E. (2d) 127 (1938).

¹³⁶ Rev. L. 1831, ch. 41, secs. 7, 11. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1940 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852. Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14731.

The acknowledgment or proof must be recorded with the instrument. *Ibid.*

¹³⁷ Acts 1933; Burns 64-929; Baldwin 15927.

after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.¹³⁸

The recorder and clerk of the circuit court are the recording officers. Lists of documents which may be recorded by them are included in the essays entitled "Recorder" and "Clerk of the Circuit Court."

Indiana has no system of registration of land titles. A bill to establish the "Torrens System" of registration of land titles was introduced in the 1939 session of the general assembly but was defeated.

Indiana has a system of registering titles to motor vehicles (law administered by the state bureau of motor vehicles),¹³⁹ but has no system of registering titles to other personal property.

JUDICIARY

Tippecanoe Circuit Court and Tippecanoe Superior Court have been in active existence ever since 1826 and 1875, respectively. The following courts formerly existed in Tippecanoe County: Probate court (1829-53); court of common pleas (two courts, 1848-52, 1853-73); court of conciliation (1853-65); and criminal circuit court (1867-75).¹⁴⁰

The circuit court has original jurisdiction of naturalization proceedings under the federal laws; all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction); proceedings to punish the violators of town ordinances; all civil actions at law; all suits in equity; divorce and alimony proceedings; declaratory judgment proceedings; juvenile matters; insanity inquests and commitments; election contests; proceedings for removal of county officers; quo warranto proceedings; proceedings for mandate, prohibition, and injunction; proceedings to quiet title to real estate; partition proceedings; ne exeat proceedings; habeas corpus proceedings; proceedings to commit per-

¹³⁸ 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

¹³⁹ Acts 1921, 1931, 1935, 1939; Burns, 1940 suppl., 47-301; Baldwin, 1939 suppl., 11128.

¹⁴⁰ See the essays entitled "Circuit Court," "Superior Court," "Probate Court (1829-53)," "Court of Common Pleas (1848-52)," "Court of Common Pleas (1853-73)," "Court of Conciliation (1853-65)," and "Criminal Circuit Court (1867-75)."

sons to hospitals operated by Indiana University; eminent domain proceedings; proceedings to establish drainage districts and assessments; proceedings for change of names; adoption proceedings; receiverships; bastardy proceedings; guardianships; probate of wills; and administration of estates of decedents, minors, and insane persons. The circuit court is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters. In connection with its jurisdiction to administer decedents' estates, the court administers certain provisions of the inheritance tax laws.¹⁴¹

The circuit court has appellate jurisdiction to review decisions of justices of the peace; city courts; board of commissioners; board of commissioners and county council acting jointly concerning condemnation of schoolhouses; board of review fixing value of property for taxation; taxing authorities determining that property is taxable; board of public works or board of park commissioners of any city in the county (or city council performing such functions); and other inferior tribunals when no express direction is given as to the court to which the appeal lies.¹⁴²

The superior court has original jurisdiction of naturalization proceedings under the federal laws, habeas corpus proceedings, mandate proceedings, prohibition proceedings, actions by or against executors and administrators, and all other civil causes at law and in equity, as a court of general jurisdiction. The United States Department of Labor has never furnished to this court the necessary printed forms for naturalization proceedings, hence it has never exercised its naturalization jurisdiction.¹⁴³

The superior court has appellate jurisdiction to review decisions of justices of the peace in civil cases, city courts in civil cases, board of commissioners, board of review fixing value of property for taxation, and board of public works and safety or board of park commissioners of any city in the county (or city council performing such functions). The act creating this court provides that it shall have "all other appellate jurisdiction in civil causes now vested in or which may hereafter be vested by law in the circuit courts."¹⁴⁴

¹⁴¹ See the essay entitled "Circuit Court."

¹⁴² *Ibid.*

¹⁴³ See the essay entitled "Superior Court."

¹⁴⁴ *Ibid.*

In each township in Tippecanoe County there is a justice of the of the peace, elected for a 4-year term by the voters of the township. He has original jurisdiction (concurrent with the circuit court) of certain civil actions involving \$200 or less, with power to render judgment up to \$300 on confession; exclusive original jurisdiction of misdemeanors under the state laws punishable only by fine not exceeding \$3; original jurisdiction (concurrent with the circuit court) of all other misdemeanors under the state laws punishable by fine only, with power to assess fines only up to \$25; and jurisdiction as a committing magistrate in criminal cases under the state laws. His civil jurisdiction is limited to his township, but his criminal jurisdiction is coextensive with his county. Each justice of the peace must pay to the county treasurer all fines which he collects. Tippecanoe County has had justices of the peace since its organization in 1826.¹⁴⁵

Arranged according to subject matter, the courts existing in Tippecanoe County from 1826 to date have had original jurisdiction as follows:—*Civil actions at law*: (a) Circuit court (1826 to date); (b) superior court (1875 to date); (c) probate court (1831-53); (d) court of common pleas (two courts, 1848-52, 1853-73). *Criminal cases*: (a) Circuit court (1826-67, 1875 to date); (b) court of common pleas (1853-67); (c) criminal circuit court (1867-75). *Chancery cases*: (a) Circuit court (1826 to date); (b) superior court (1875 to date); (c) probate court (1831-53); (d) court of common pleas (two courts, 1848-52, 1853-73). *Probate matters, settlement of decedents' estates, and guardianships*: (a) Circuit court (1826-29, 1873 to date); (b) probate court (1829-53); (c) court of common pleas (1853-73). *Juvenile matters*: (a) Circuit court (1875 to date); (b) court of common pleas (1867-73). *Conciliation*: Court of conciliation (1853-65). *Naturalization proceedings*: (a) Circuit court (1826 to date); (b) superior court (1875 to date); (c) court of common pleas (1853-73).¹⁴⁶

¹⁴⁵ Const. 1816, art. 5, sec. 12. Const. 1851, art. 7, sec. 14. Rev. Stat. 1838, ch. 7 (second act), sec. 1; ch. 58, secs. 1, 5, 14, 18, 19, 39. Rev. Stat. 1843, ch. 4, secs. 21-25; ch. 47, secs. 1-13; ch. 55, secs. 1, 5-8. 2 Rev. Stat. 1852, pt. 4, ch. 1, secs. 1-3; ch. 6, secs. 1-9. Acts 1913; Burns 5-101; Baldwin 1828. 2 Rev. Stat. 1852, Acts 1861; Burns 5-201, 5-208; Baldwin 1857, 1859. Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

¹⁴⁶ See the essays entitled "Circuit Court," "Superior Court," "Probate Court (1829-53)," "Court of Common Pleas (1848-52)," "Court of Common Pleas (1853-73)," "Court of Conciliation (1853-65)," and "Criminal Circuit Court (1867-75)."

Decisions of the circuit court and superior court were reviewable by the Supreme Court of Indiana until 1891, and since 1891 by the Supreme Court of Indiana or the Appellate Court of Indiana. Decisions of the probate court (1829-53) and the court of common pleas (1848-52, 1853-73) were reviewable by the Tippecanoe Circuit Court or the Supreme Court of Indiana. Decisions of the criminal circuit court were reviewable by the Supreme Court of Indiana. Proceedings in the court of conciliation could not be appealed to another court.¹⁴⁷

In 1937 the Supreme Court of Indiana said: "Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal view, and even though it shocks our sense of justice and fairness."¹⁴⁸

The clerk of the circuit court, in person or by deputy, performs for the circuit court and the superior court the numerous statutory and customary duties of clerk. He served as clerk of the probate court (1829-53), court of common pleas (two courts, 1848-52, 1853-73), and criminal circuit court (1867-75). The court of conciliation (1853-65) had no clerk.¹⁴⁹

The sheriff, in person or by deputy, attends the circuit court and superior court, preserves order therein, makes announcements for the courts, calls witnesses to the courtrooms, and executes the process of the courts. He performed similar duties for the probate court (1829-53), court of common pleas (two courts, 1848-52, 1853-73), court of conciliation (1853-65), and criminal circuit court (1867-75).¹⁵⁰ Constables perform similar duties for the justices of the peace.¹⁵¹ Bailiffs (appointed by the judges as needed) wait on the grand juries (in circuit court only) and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy performs these duties.¹⁵² The coroner performs these duties of the sheriff

¹⁴⁷ *Ibid.*

¹⁴⁸ State v. Brown, 213 Ind. 118, 124, 11 N. E. (2d) 679 (1937).

¹⁴⁹ See the essays entitled "Circuit Court," "Superior Court," "Probate Court (1829-53)," "Court of Common Pleas (1848-52)," "Court of Common Pleas (1853-73)," "Court of Conciliation (1853-65)," and "Criminal Circuit Court (1867-75)."

¹⁵⁰ *Ibid.* See the essay entitled "Sheriff."

¹⁵¹ 2 Rev. Stat. 1852; Burns 5-601; Baldwin 1865. Acts 1905; Burns 9-710; Baldwin 2081.

2 Rev. Stat. 1852; Burns 49-3401, 49-3403, 49-3407; Baldwin 16116, 16119, 16122.

¹⁵² 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1852, pt. 1, ch. 6, sec. 4. Acts 1879,

in the event of the absence, personal interest, or incapacity of the sheriff, or vacancy in his office.¹⁵³ If the coroner is also absent or incapacitated, the judge appoints an elisor to perform these duties of the sheriff.¹⁵⁴ The prosecuting attorney acts as attorney for the state in criminal cases under state laws and as attorney for the county and state in certain civil cases.¹⁵⁵ The probation officer (appointed by the judge of the circuit court for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.¹⁵⁶ The county director of public welfare performs duties of the probation officer when so directed by the circuit court.¹⁵⁷ The court reporters (appointed by the judges for indefinite terms) take down in shorthand, and thereafter transcribe into typewriting, as directed by the courts or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the courts.¹⁵⁸ Two jury commissioners (annually appointed by the circuit judge) prepare lists of names from which the grand juries and petit juries are drawn.¹⁵⁹ The court pages (appointed by the judges for indefinite terms when needed)

ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1940 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. Adams v. State, 214 Ind. 603, 17 N. E. (2d) 84 (1938). *Opinions of the Attorney General of Indiana, 1939*, p. 312.

¹⁵³ 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

¹⁵⁴ 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

¹⁵⁵ 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Freed v. Martin Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938); State *ex rel.* Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938). See the essay entitled "Prosecuting Attorney."

¹⁵⁶ Acts 1903, ch. 23, sec. 2. Acts 1925, ch. 218. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364.

¹⁵⁷ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

¹⁵⁸ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. Adams v. State, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

¹⁵⁹ Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1940 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Crickmore v. State, 213 Ind. 586, 12 N. E. (2d) 266 (1938); Johnson v. State, 213 Ind. 659, 14 N. E. (2d) 96 (1938); Foreman v. State, 214 Ind. 79, 14 N. E. (2d) 546 (1938).

serve as messengers for the judges and clerk, and perform other minor duties assigned to them by the judges.¹⁶⁰

Formerly juries were used in coroner's inquests, but such juries were abolished in 1879. The coroner acts in a nonjudicial capacity when holding inquests, and his findings are not binding upon any person.¹⁶¹

LAW ENFORCEMENT

The constitution provides that all judicial officers shall be conservators of the peace in their respective jurisdiction,¹⁶² and that all criminal prosecutions shall be carried on "in the name, and by the authority of, the state."¹⁶³

Investigations of alleged violations of criminal law are conducted by the prosecuting attorney,¹⁶⁴ the sheriff,¹⁶⁵ or the coroner,¹⁶⁶ cooperating with one another and with state and federal bureaus of law enforcement;¹⁶⁷ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.¹⁶⁸

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.¹⁶⁹

¹⁶⁰ Dunn v. State *ex rel.* Corydon, 204 Ind. 390, 184 N. E. 535 (1933). *Opinions of the Attorney General of Indiana, 1939*, p. 312.

¹⁶¹ See the essay entitled "Coroner."

¹⁶² Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

¹⁶³ Const. 1816, art. 5, sec. 11. Const. 1851, art. 7, sec. 18.

¹⁶⁴ 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459. State *ex rel.* Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

¹⁶⁵ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

¹⁶⁶ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1940 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

¹⁶⁷ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

¹⁶⁸ Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

"An inquiry of a grand jury is not limited to the consideration of that which would be admissible on the trial of a cause. Any testimony which might legally affect the finding of or refusal to find an indictment is material on a grand jury investigation." *Maddox v. State*, 213 Ind. 537, 12 N. E. (2d) 947 (1938).

¹⁶⁹ Acts 1905; Burns 9-826; Baldwin 2122.

The grand jury consists of six members,¹⁷⁰ at least five of whom must concur in the finding of an indictment. When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill" and signs his name thereunder. The indictment is also signed by the prosecuting attorney.¹⁷¹

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.¹⁷² He may also prosecute on affidavit all criminal offenses under the state laws, other than treason and murder.¹⁷³

Actual enforcement of criminal law in the county is entrusted to the sheriff and the coroner, both offices having existed in Tippecanoe County since its organization in 1826.¹⁷⁴ As law enforcement officers, they have identical powers and duties;¹⁷⁵ in practice, however, the coroner performs few of these duties, except in the absence or incapacity of the sheriff. These officers make arrests in accordance with warrants issued by the circuit court or by the clerk of the circuit court, based on indictments returned by the grand jury or affidavits filed with the court.¹⁷⁶ Warrants

¹⁷⁰ Acts 1905; Burns 9-801; Baldwin 2097.

Const. 1851, art. 7, sec. 16; art. 15, sec. 4, concerning eligibility and oath of officers, do not apply to grand jurors. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

¹⁷¹ Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State*, 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950 (1938).

Endorsement by prosecuting attorney. *Taylor v. State*, 113 Ind. 471, 16 N. E. 183 (1888); *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *Hamer v. State*, 200 Ind. 403, 163 N. E. 91 (1928).

Statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State*, 213 Ind. 560, 12 N. E. (2d) 270 (1938).

¹⁷² 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

¹⁷³ Acts 1905, 1927; Burns 9-908; Baldwin 2131.

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." The court cannot compel the prosecuting attorney to approve such affidavit. *State ex rel. Freed v. Martin Circuit Court*, 214 Ind. 152, 14 N. E. (2d) 910 (1938).

"In him [the prosecuting attorney] is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. Judges and courts cannot substitute their discretion for that of the prosecuting attorney." *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

¹⁷⁴ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1825-26, ch. 10, sec. 1.

¹⁷⁵ 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

¹⁷⁶ Acts 1881 (Spec. Sess.); Burns 3-302; Baldwin 725.

for arrest may also be issued by the coroner, when the results of an inquest indicate that a felony was committed.¹⁷⁷ Arrest without warrant can be made for a felony, where the arresting officer has reliable information of the commission of the crime by the person arrested; and arrest without warrant can be made for a felony or misdemeanor committed within view of the arresting officer.¹⁷⁸ A warrant issued to the sheriff of the county in which the indictment was found or the affidavit was filed may be executed by him in any county of the state.¹⁷⁹

In the constitution there are many provisions for the benefit of persons accused of crime. Justice must be administered freely, and without purchase; speedily, and without delay.¹⁸⁰ The accused has the right to a public trial in the county in which the offense was committed; the right to be heard by himself and counsel; the right to demand the nature and cause of the accusation against him, and to have a copy thereof; the right to meet the witnesses face to face; and the right to have compulsory process for obtaining witnesses in his favor.¹⁸¹ No person can be put in jeopardy twice for the same offense. In a criminal prosecution, no person can be compelled to testify against himself.¹⁸² A person arrested or confined in jail must not be treated with unnecessary rigor.¹⁸³ Excessive bail must not be required. Excessive fines must not be imposed. Cruel and unusual punishments must not be inflicted. All penalties must be proportioned to the nature of the offense.¹⁸⁴ Offenses other than murder and treason are always bailable by sufficient sureties. Murder and treason are bailable unless the proof of guilt is evident or the presumption of guilt is strong.¹⁸⁵ The penal laws of Indiana are founded on the principles of reformation, and not of vindictive justice.¹⁸⁶ In all criminal

¹⁷⁷ 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

¹⁷⁸ *Doering v. State*, 49 Ind. 56, 19 Am. Rep. 669 (1874); *Hart v. State*, 195 Ind. 384, 145 N. E. 449 (1924).

¹⁷⁹ Acts 1905, 1937; Burns, 1940 suppl., 9-1001; Baldwin, 1937 suppl., 2134.

¹⁸⁰ Const. 1851, art. 1, sec. 12.

¹⁸¹ *Ibid.*, sec. 13.

¹⁸² *Ibid.*, sec. 14.

¹⁸³ *Ibid.*, sec. 15.

¹⁸⁴ *Ibid.*, sec. 16.

¹⁸⁵ *Ibid.*, sec. 17.

¹⁸⁶ *Ibid.*, sec. 18.

cases the jury has the right to determine both the law and the facts.¹⁸⁷ The privilege of the writ of habeas corpus (to obtain release from unlawful detention) cannot be suspended, except in case of rebellion or invasion; and then only if the public safety demands such suspension.¹⁸⁸ No conviction can "work corruption of blood or forfeiture of estate."¹⁸⁹ The governor has power to grant reprieves, commutations, and pardons, and to remit fines and forfeitures.¹⁹⁰

The county jail is maintained by the county,¹⁹¹ the sheriff being responsible for its management.¹⁹² Inspection or investigation is made by the grand jury at the beginning of each regular session,¹⁹³ and by the board of commissioners every 3 months.¹⁹⁴

FINANCE

APPROPRIATIONS AND BUDGETS

The power of making appropriations of money to be paid out of the county treasury has been vested exclusively in the county council since 1899.¹⁹⁵ Before 1899 the board of commissioners performed the duties now performed by the county council.¹⁹⁶

No money can be drawn from the county treasury not in pursuance of appropriation therefor,¹⁹⁷ except in the following instances: (a) Money belonging to the state and commanded by law to be paid into the state treasury; (b) money belonging to any school fund; (c) money belonging to any fund of any township, town, or city, and commanded by law to be paid to such municipality; (d) money, due to any person, which has been paid into the county treasury pursuant to public

¹⁸⁷ *Ibid.*, sec. 19.

¹⁸⁸ *Ibid.*, sec. 27.

¹⁸⁹ *Ibid.*, sec. 30.

¹⁹⁰ *Ibid.*, art. 5, sec. 17.

¹⁹¹ 1 Rev. Stat. 1852; Burns 13-1001; Baldwin 13448.

¹⁹² 1 Rev. Stat. 1852; Burns 13-1004; Baldwin 13453.

¹⁹³ 1 Rev. Stat. 1852; Burns 13-1002; Baldwin 13449.

¹⁹⁴ Acts 1909; Burns 13-1008; Baldwin 13460.

¹⁹⁵ Acts 1899; Burns 26-515; Baldwin 5379. "Requirements for Spending Public Money,"

Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (Indianapolis, 1940), 8-14.

¹⁹⁶ 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16, 17, 18, 21, 22.

¹⁹⁷ Acts 1899; Burns 26-515; Baldwin 5379.

improvement assessments on persons or property of the county in territory less than the whole county; (e) money, due to any person, which has been paid into the treasury for redemption from any tax or other sale; or money so due that has been paid pursuant to authority of law as a tender or payment to such person; (f) taxes erroneously paid; (g) funds received from the state or federal governments for welfare assistance or public work projects;¹⁹⁸ and (h) salaries fixed by law.¹⁹⁹

Before the Thursday following the 1st Monday in August each year, the various officials of the county (including township trustees or assessors) submit to the auditor estimates of expenditures for the ensuing calendar year and estimates of probable revenue to be received from the state during that period. The estimates are kept on file in the auditor's office, subject to inspection by any taxpayer of the county. The auditor publishes notice of the aggregate amount of each of such estimates, and prepares an ordinance making an appropriation by items for the ensuing calendar year for the various purposes for which all of the estimates are required. At the annual meeting of the county council on the 1st Tuesday after the 1st Monday in September, the auditor submits all of the estimates to the county council and makes recommendations with reference thereto. The council, at that meeting, considers the estimates and the proposed ordinance, and makes such changes as are deemed necessary. A three-fourths vote is required to make appropriation for any item not contained in any estimate or for a greater amount than that named in any item of any estimate. The ordinance making the appropriation for the ensuing year is adopted after being read on at least 2 separate days. This appropriation is called the annual county budget, and the estimates of expenditures and revenue are called budget estimates.²⁰⁰

¹⁹⁸ Acts 1899, 1935; Burns, 1940 suppl., 26-522; Baldwin, 1935 suppl., 5386.

¹⁹⁹ *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

Salaries fixed by judge of circuit court for bailiff and page. *Opinions of the Attorney General of Indiana*, 1939, p. 312.

²⁰⁰ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

Appropriations can be made only by the passage of ordinances. *State ex rel. Davis v. Board of County Comrs.*, 165 Ind. 262, 74 N. E. 1091 (1905).

The statutory provision requiring an ordinance for an appropriation to be read on 2 separate days is mandatory, and on failure to comply therewith the ordinance is invalid. *Van Der Veer v. State ex rel. Herron*, 97 Ind. App. 1, 165 N. E. 265 (1929).

If an emergency arising after the adjournment of the annual meeting requires funds supplementary to those originally included in the annual budget, additional appropriations may be made in an ordinance passed by a two-thirds vote of all the members of the council at a special meeting, after estimates are prepared and submitted in the manner required for annual estimates. If the aggregate amount of the requested appropriation exceeds \$15,000, the ordinance must be read on 2 separate days before passage.²⁰¹ Such additional appropriations must be approved by the state board of tax commissioners.²⁰²

When any item of appropriation remains unexpended at the end of the calendar year for which it was appropriated, the amount thereof reverts to the general fund of the county, and no warrant can be drawn thereon. However, time for withdrawal is extended where payment was withheld during such year because of an injunction which was later dissolved.²⁰³ It is unlawful to overdraw the amount of any item of appropriation or to use the funds of any item for an unauthorized purpose.²⁰⁴

No county official or court has power to bind the county by any contract, express or implied, to any extent beyond the amount of money at the time already appropriated by ordinance for the purpose of the obligation attempted to be incurred.²⁰⁵

The surveyor's budget estimates of costs of maintenance of roads is under the control of the board of commissioners, and may be changed at any time by the board without the approval of the surveyor or the county highway supervisor. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

²⁰¹ Acts 1937; Burns, 1940 suppl., 26-521; Baldwin, 1937 suppl., 5385.

The council's determination of emergency is not conclusive on the courts. *State ex rel. Kautz v. Board of County Comrs.*, 204 Ind. 484, 184 N. E. 780 (1933).

The words "emergency growing out of a flood, fire, pestilence, war, or other major disaster" are used in Acts 1937; Burns, 1940 suppl., 61-312; Baldwin, 1937 suppl., 15897-6.

Provisions concerning township poor relief and public welfare services. Acts 1935; Burns, 1940 suppl., 52-174; Baldwin, 1935 suppl., 13320-31. Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1303; Baldwin, 1937 suppl., 14078-100. *O'Rourke v. Board of County Comrs.*, 215 Ind. 195, 18 N. E. (2d) 380 (1939).

²⁰² Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

²⁰³ Acts 1899, 1903, 1905; Burns 26-524; Baldwin 5388.

²⁰⁴ Acts 1899; Burns 26-523; Baldwin 5387. Acts 1899, 1935; Burns, 1940 suppl., 26-522; Baldwin, 1935 suppl., 5386.

²⁰⁵ Acts 1899; Burns 26-525, 26-527; Baldwin 5389, 5391. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

TAXATION

The power of taxation is inherent in the state, and is a legislative power limited only by the provisions of the constitution.²⁰⁶ The constitution provides that "The General Assembly shall provide, by law, for a uniform and equal rate of assessment and taxation; and shall prescribe such regulations as shall secure a just valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law."²⁰⁷ This section applies only to a general assessment on property according to its value, and does not apply to excise taxes.²⁰⁸ Exemptions are discussed hereinafter.

In Indiana there are poll taxes, excise taxes, and property taxes. A poll tax is a tax assessed on the person. An excise tax is a tax on privileges, and includes taxes on occupations, inheritance, sale of gasoline, and the like. Laws imposing excise taxes are sometimes called "internal revenue laws." The property tax (also known as ad valorem tax) is the tax on real and personal property based on value, and it constitutes the largest part of the county revenue. Property may be subject to an excise tax and also a property tax. Excise taxes administered by county officers are discussed hereinafter under the heading "Excise Taxes and Licensing."

In each township having a population not exceeding 5,000 (all townships except Fairfield and Wabash), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference

But lack of appropriation does not prevent entry of a judgment binding the county, where the court has jurisdiction of the parties and subject matter of the action. Acts 1899; Burns 26-527; Baldwin 5391. Board of County Comrs. v. McGregor, 171 Ind. 634, 87 N. E. 1 (1909).

²⁰⁶ State *ex rel.* Goodman v. Halter, 149 Ind. 292, 47 N. E. 665 (1897); Dunn v. Indianapolis, 203 Ind. 630, 196 N. E. 528 (1935); Miles v. Department of Treasury, 209 Ind. 172, 199 N. E. 372 (1935); State *ex rel.* Jackson v. Middleton, 215 Ind. 219, 19 N. E. (2d) 470 (1939). "Taxation in Indiana the Last Forty-Eight Years," *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939* (1939), 75-89.

²⁰⁷ Const. 1851, art. 10, sec. 1.

The legislative power to exempt from taxation extends only to property "for municipal, education, literary, scientific, religious or charitable purposes." Stark v. Kreyling, 207 Ind. 128, 188 N. E. 680 (1934). *Opinions of the Attorney General of Indiana, 1939*, p. 62.

²⁰⁸ State Bd. of Tax Comrs. v. Jackson, 283 U. S. 527, 75 L. Ed. 1248, 51 Sup. Ct. 540 (1931); Miles v. Department of Treasury, 209 Ind. 172, 199 N. E. 372 (1935); Davis v. Sexton, 210 Ind. 138, 200 N. E. 233 (1936).

herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.²⁰⁹

A poll tax is assessed on every male inhabitant of the state between the ages of 21 and 50 years, and every such person must be listed for his poll tax in the township, town, or city of his residence.²¹⁰ Poll tax exemptions are allowed volunteer firemen²¹¹ and former soldiers and sailors receiving service-connected disability compensation.²¹² Before 1919 the board of commissioners could grant poll tax exemptions because of inability to pay.²¹³ The auditor certifies to the city officials the number of taxable polls therein,²¹⁴ and adds omitted polls to the tax duplicate.²¹⁵ Poll taxes are collected by the county treasurer. A poll tax receipt must be presented to any licensing authority to obtain an occupation license required by state law, a motor vehicle operator's or chauffeur's license, a motor vehicle license, or a certificate of title for a motor vehicle.²¹⁶

The property tax laws are administered by the township assessors, county assessor, auditor, treasurer, board of review, county council, and board of tax adjustment, under the supervision of the state board of tax commissioners.²¹⁷ The state board of tax commissioners prescribes rules and forms for the subordinate tax officials and instructs them concern-

²⁰⁹ Acts 1933; Burns 64-1031; Baldwin 15664.

Vacancy caused by death of township assessor. *Opinions of the Attorney General of Indiana*, 1939, p. 243.

²¹⁰ Acts 1919; Burns 64-102; Baldwin 15515.

²¹¹ 1 Rev. Stat. 1852, ch. 41, sec. 3. Acts 1933, ch. 91, sec. 1. Acts 1935, ch. 302, sec.

1. Acts 1939; Burns, 1940 suppl., 48-6161; Baldwin, 1939 suppl., 12653-1.

²¹² Acts 1923; Burns 45-1210; Baldwin 10917. Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1940 suppl., 64-201, 64-220; Baldwin, 1937 suppl., 15518, 15515-1.

Before 1937 exemption was granted to all militiamen, soldiers, and sailors in active service. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-201; Baldwin 15518.

²¹³ 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). *Opinions of the Attorney General of Indiana*, 1936, p. 83.

²¹⁴ Acts 1905, 1911; Burns 48-6708; Baldwin 15156.

²¹⁵ Acts 1919; Burns 64-2102; Baldwin 15803.

²¹⁶ Acts 1931; Burns 42-102 to 42-105; Baldwin 10499 to 10501, 10503.

²¹⁷ Information obtained from Philip Zoercher, chairman of the state board of tax commissioners, on May 18, 1919, by W. Davis Hamilton. See the authorities cited hereinafter under specific text statements.

ing their duties.²¹⁸ It makes original assessments of certain classes of property of railroads, telephone companies, and other public utilities,²¹⁹ and supervises and reviews assessments, appropriations, and levies of the subordinate tax officials.²²⁰

The principal steps in property taxation, stated in their chronological order, are assessment, budget, levy, and collection. The assessment is the determination of what property is taxable and the value thereof. The budget is the appropriation of money for expenditures for the next calendar year. The levy is the charging of a certain amount of taxes against each \$100 of assessed valuation to raise the money required for the budget. The collection involves the voluntary payment and also proceedings to compel payment.²²¹

Assessment of real and personal property for county purposes also serves as the assessment for state, township, city, and town purposes.²²² Personal property is assessed each

²¹⁸ Acts 1919, 1921; Burns 64-1309, 64-2803, 64-2806; Baldwin 15713, 15866, 15869. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, pp. 22-33, 53, 54, 102, 103, 123-139.

²¹⁹ The state board of tax commissioners assesses property of the following companies: Railroad, telephone, express, telegraph, sleeping car, pipe line, car equipment (tank, refrigerator, freight), and "public utility" (heat, light, water, power, elevator, and warehouse service).

In case of railroads, the state board assesses the railroad track and the rolling stock. Local authorities assess personal property that has a fixed location and also real estate outside of the property denominated "railroad track."

The state board assesses the personal and intangible properties of the other specified companies. Their other property is assessed by local authorities.

Car equipment companies pay a tax of 2 percent on their assessed value direct to the state department of treasury.

Except as to the car equipment companies, the assessment of the state board is certified to the county auditor who apportions it among the several townships, towns, and cities entitled to a levy thereon, and places such assessments on the tax duplicate; and thereafter the tax is collected by the county treasurer. Acts 1919, 1921, 1923, 1932 (Spec. Sess.); Burns 64-703 to 64-740; Baldwin 15617 to 15654. "State Board Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 14-21.

²²⁰ Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1925, 1927, 1931; Burns 64-1301 to 64-1338; Baldwin 15705 to 15737, 12490 to 12492, 12522, 12527. Acts 1935; Burns, 1940 suppl., 64-1313, 64-1321, 64-1324, 64-1325, 64-1331; Baldwin, 1935 suppl., 15717, 15725, 15728, 15729, 15735.

²²¹ Information obtained from Philip Zoercher, chairman of the state board of tax commissioners, on May 18, 1939, by W. Davis Hamilton.

²²² Acts 1919; Burns 64-2814; Baldwin 15877.

year as of the 1st day of March.²²³ Though real estate is not reassessed every year (the old assessment remaining in effect until changed), the lien for taxes thereon dates from March 1.²²⁴ All taxable property, real and personal, is required to be assessed at the true cash value thereof.²²⁵ Since personal property and real property are assessed differently, they will be discussed separately, beginning with personal property.

Personal property must be listed for taxation between March 1 and May 15 each year, with reference to the quantity and quality owned on March 1.²²⁶ Each township assessor calls on the taxpayers and furnishes them with blanks for listing personal property. The taxpayer must list, under oath, all personal property held, possessed, or controlled by him, and state what he deems the true cash value of each item. Ordinarily the valuation of the taxpayer is accepted if it is in reason, but the assessor may fix a different valuation. If no list is given by the taxpayer or if the assessor doubts the correctness of the list, he may examine, under oath, the taxpayer and other persons concerning such property, and set down and assess to such person such amount of personal property as he may deem just.²²⁷ If the taxpayer refuses to make a return or oath required by law, the assessor makes a note of such refusal, and the auditor adds 50 percent to the valuation returned by the assessor.²²⁸

After giving notice to the taxpayer, omitted personal property may be assessed by the township assessor,²²⁹ county assessor,²³⁰ auditor,²³¹ or board of review;²³² and appeal

²²³ Acts 1919; Burns 64-103, 64-401, 64-403; Baldwin 15516, 15524, 15526.

²²⁴ Acts 1919, 1920 (Spec. Sess.); Burns 64-2825; Baldwin 15886.

²²⁵ Acts 1919; Burns 64-103, 64-1009; Baldwin 15516, 15675. Acts 1937; Burns, 1940 suppl., 64-1019b; Baldwin, 1937 suppl., 15685-2. "Uniformity of Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana*, December 20, 21, 22, 1939 (1940), 54-85.

²²⁶ Acts 1919; Burns 64-401; Baldwin 15524.

²²⁷ Acts 1919; Burns 64-601 to 64-604, 64-610; Baldwin 15569 to 15572, 15578. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana*, December 20, 21, 22, 1939 (1940), 22-30, 53, 54, 102, 103, 123-139.

²²⁸ Acts 1919; Burns 64-610; Baldwin 15578.

²²⁹ Acts 1919; Burns 64-1025; Baldwin 15692.

²³⁰ Acts 1919; Burns 64-1102; Baldwin 15698.

²³¹ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²³² Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

from such assessment may be taken to the circuit court, on the question of whether such omitted property is taxable.²³³

The county assessor advises and instructs all township assessors in the county; and for this purpose visits each township assessor during March and April each year. The county assessor endeavors to cause uniformity and equality of assessment by the several township assessors. The county assessor and the township assessors may be removed by the state board of tax commissioners for incompetency or neglect of duty.²³⁴

The board of review, after giving 2 weeks' notice, meets on the 1st Monday in June each year. The board reviews the assessment of personal property, hears complaints of owners, reduces or increases valuations, equalizes valuations, corrects and complete the tax lists, and assesses omitted property. Notice must be given by the auditor to the owner before the board of review assesses omitted property or raises valuations.²³⁵ Any person dissatisfied with the decision of the board of review may appeal to the state board of tax commissioners. Hearings on such appeals are, when possible, held in the auditor's office in the county from which the appeal was taken. The amount fixed by the state board is the final assessment of such property.²³⁶

The county auditor, on or before March 1 each year, makes out and delivers to the township assessors lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation.²³⁷

The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels of real estate therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with

²³³ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

²³⁴ Acts 1919, 1921; Burns 64-1001, 64-1102; Baldwin 15666, 15698.

Death of township assessor. *Opinions of the Attorney General of Indiana, 1939*, p. 243.

²³⁵ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²³⁶ Acts 1919, 1935; Burns, 1940 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

²³⁷ Acts 1919, 1937; Burns, 1940 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

all current transactions and transfers.²³⁸ For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees.²³⁹ On the death of a landowner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.²⁴⁰

Each township assessor is required to call on every person residing in his township for a list of lands owned by such person in such township subject to taxation. The improvements on such land should be described, and any change of improvements since March 1 of the previous year should be stated. If such person fails to furnish such list within 5 days after being called on, as notified to do, the assessor may make the list according to the best information he can obtain, and the auditor must add 25 percent to the assessor's valuation of such person's lands or improvements which were not assessed for taxation the previous year. On or before the 1st Monday in June in each year, the assessor must make out and deliver to the auditor, in a book furnished by him, a return of all real estate so listed.²⁴¹

Reassessment of lots, lands, or improvements can be made only when authorized by the state board of tax commissioners. If improvements are destroyed or removed, or if the value of improvements is reduced by substantial changes, the taxpayer should apply to the state board for an order for reassessment, since the local officials cannot remove improvements from the tax lists and books or reduce the assessment of improvements without such order for reassessment. The assessments mentioned in the next paragraph below may be made without an order from the state board. The last general reassessment of real estate in Indiana was made in 1932.²⁴²

²³⁸ *Ibid.*

²³⁹ Acts 1919; Burns 64-1409; Baldwin 15746.

²⁴⁰ Acts 1921; Burns 64-519; Baldwin 14777.

²⁴¹ Acts 1919; Burns 64-1008, 64-1009, 64-1013, 64-1015, 64-1016; Baldwin 15674, 15675, 15679, 15681, 15682. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 22-30, 53, 54, 102, 103, 123-139. See the following footnote.

²⁴² Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019; Baldwin, 1937 suppl., 15685. "Uniformity of Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 54-85. Information obtained from Philip Zoercher, chairman of the state board of tax commissioners, on March 29, 1940, by W. Davis Hamilton.

Each person authorized to make assessment valuations of real estate for taxation is charged with the duty of correcting tax book errors as to description of property and name of owner. A notation is made showing any change of ownership since the last assessment. Each township assessor, after giving notice to the occupant of the property or the resident of the county claiming ownership, each year assesses any lots, lands, or improvements found omitted, and makes a return thereof to the auditor as of the year when the same should have been first assessed.²⁴³ The county assessor,²⁴⁴ auditor,²⁴⁵ and board of review²⁴⁶ also have power to assess such omitted property after giving notice. The auditor makes assessment of any newly platted additions to any city or town.²⁴⁷ Such assessments by the township assessors, county assessor, and auditor may be reviewed and revised at the next meeting of the board of review.²⁴⁸ The decision of the board of review in reviewing such assessments or in making original assessments of omitted lots, lands, or improvements may be reviewed by the state board of tax commissioners in the manner provided for review of decisions concerning personal property, discussed above.²⁴⁹ From any assessment of omitted lots, lands, or improvements, appeal may be taken to the circuit court on the question of such property's taxability.²⁵⁰

In case of flood, fire, or other disaster in which a substantial amount of property in any township has been partially or totally destroyed, the state board of tax commissioners must order a survey, determine the locality in which the property has been partially or totally destroyed, and order reassessment of all or part of the property in such township.²⁵¹

²⁴³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

²⁴⁴ Acts 1919; Burns 64-1102; Baldwin 15698.

²⁴⁵ Acts 1919; Burns 64-1402, 64-2102; Baldwin 15739, 15803.

²⁴⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁴⁷ Acts 1919; Burns 64-1027; Baldwin 15691.

²⁴⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704.

²⁴⁹ Acts 1919, 1935; Burns, 1940 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

²⁵⁰ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

²⁵¹ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019(c); Baldwin, 1937 suppl., 15685(c).

The state board, after March 31 of a year in which a general election is not held, may, without petition of taxpayers, order a hearing on the necessity of reassessment for the whole state or for any of the counties or townships thereof. A hearing is held after notice thereof, in each county in which the affected property is located. The board may then order reassessment.²⁵²

Any person may, before March 31 in any year, file with the state board of tax commissioners a petition for reassessment of his real estate. At the hearing, the petitioner must show cause for reassessment. Other taxpayers may be heard in opposition. The board may then order the requested reassessment. This is the only method for obtaining reassessment of particular real estate.²⁵³

A petition for reassessment of all real estate in a township, signed by the necessary percentage—it varies in different townships—of the resident owners of taxable real estate of such township and bearing a certificate of the auditor as to the required number of signers, may be filed with the state board of tax commissioners before March 31, in any year in which there is no general election of state, county, or township officials. If it appears to the board that the petition is in proper order and that the present valuation is inequitable, the board will order reassessment of all or part of the real estate in the township.²⁵⁴

Within 10 days after the valuation of real or personal property is determined by the board of review or state board of tax commissioners, the owner may appeal to the circuit court on questions of law concerning such valuation.²⁵⁵

There are a great many statutory provisions concerning exemptions from property taxes, and space will permit only a brief discussion thereof. The following property is exempt from property taxes: Property of the United States and the State of Indiana; property of any county, city, town, or township; lands granted for the use of the common schools; real and personal property (including dormitories) actually

²⁵² Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019(b); Baldwin, 1937 suppl., 15685(b).

²⁵³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019(d); Baldwin, 1937 suppl., 15685(d).

²⁵⁴ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

²⁵⁵ Acts 1927; Burns 64-1020; Baldwin 15686.

used by schools and colleges; property used (or devised to be used) exclusively for educational, literary, scientific, religious, or charitable purposes; property of agricultural associations, cemetery associations, and soldiers' and sailors' memorial associations; property of the American Legion, Young Men's Christian Association, Knights of Columbus, and similar associations; property of fraternal beneficiary associations, college fraternities, and college sororities; historical sites maintained for nonprofit public exhibition; property used exclusively for the purpose of a public library; property owned and used exclusively by the Indiana National Guard or other military organization for armory purposes; bonds and notes issued by any municipality or taxing district of the state for certain purposes; and certain annuities payable by religious or charitable organizations.²⁵⁶ Sworn statements must be filed with the auditor on or before the 1st day of March each year to obtain exemptions of property other than the following: Property owned by the State of Indiana, the United States, municipal corporations, and political subdivisions of the state; and property owned and used by churches, state-accredited schools, state-accredited charitable institutions, hospitals, and college fraternities and sororities.²⁵⁷

Any Indiana resident owning real estate encumbered by a mortgage may have the amount of the mortgage existing and unpaid on the 1st day of March, not exceeding \$1,000 and not exceeding one-half of the assessed valuation, deducted from the assessed valuation for that year, by filing with the auditor between the 1st day of March and the 1st Monday in May a sworn statement in the form required by law.²⁵⁸

²⁵⁶ Acts 1919, 1920 (Spec. Sess.), 1921, 1923, 1937; Burns, 1940 suppl., 64-201; Baldwin, 1937 suppl., 15518.

Property of cities and towns. Acts 1939; Burns, 1940 suppl., 64-221; Baldwin, 1939 suppl., 15518-5. *Opinions of the Attorney General of Indiana, 1939*, p. 62.

Municipally-owned utility is taxable to the extent it is used in a proprietary capacity. *Borgman v. Fort Wayne*, 215 Ind. 201, 18 N. E. (2d) 762 (1939).

Farms operated by colleges and hospitals. *Opinions of the Attorney General of Indiana, 1939*, p. 146.

Bridge across Ohio River. *Ibid.*, p. 294.

Totally disabled soldiers, sailors, marines, and nurses, and the widows of such soldiers, sailors, or marines. Acts 1927; Burns 64-205 to 64-207; Baldwin 10986 to 10988.

²⁵⁷ Acts 1937; Burns, 1940 suppl., 64-213, 64-215; Baldwin, 1937 suppl., 15518-2, 15518-4.

²⁵⁸ Acts 1919, 1939; Burns, 1940 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. *Opinions of the Attorney General of Indiana, 1939*, p. 123. "Mortgage Deductions," *Thirty-Eighth*

The county auditor, not later than September 1 each year, apports the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships, cities, and towns for the purpose of making tax levies based thereon.²⁵⁹

The county council, at its annual meeting in August, adopts a budget, establishes the tax rate, and makes tax levies for the succeeding calendar year. The auditor then schedules the rates for the several municipal corporations in the county, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.²⁶⁰

Appeal from the action of the county council may be taken to the state board of tax commissioners. That board, after hearing the objections, may affirm or decrease the total tax levy on any item thereof. The decision of the board, which is final and conclusive "with respect to said levies and such parts thereof as may have been in question," is certified to the auditor, and the auditor certifies it to the taxing units interested therein. When the state board orders a reduction in the levy, it indicates the items in the budget affected by such reduction; and this limits the expenditures for the year, except in cases of extraordinary emergency.²⁶¹

The laws discussed in the next four paragraphs do not apply to levies and rates to meet the following liabilities: (a) Funding, refunding, or judgment funding obligations; (b) "outstanding obligations"; (c) judgments; (d) obligations issued to meet emergency growing out of flood, fire, pestilence, war, or other major disaster; (e) obligations issued on petition under this act; or (f) requirements of the county welfare fund for public welfare services. It is the duty of the county council to levy an amount sufficient to meet such purposes, regardless of any statutory provisions to the contrary.²⁶²

Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, January 9, 10, 11, 1939 (1939), 64-74.

Under the 1919 act the owner was not required to be a resident of Indiana in order to obtain a mortgage exemption. Acts 1919; Burns 64-209; Baldwin 15565.

²⁵⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

²⁶⁰ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

²⁶¹ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331; Baldwin 1935 suppl., 15735.

²⁶² Acts 1937; Burns, 1940 suppl., 64-312, 64-313; Baldwin, 1937 suppl., 15897-6, 15897-7.

Except on authorization of the state board of tax commissioners, the total tax rate for all purposes other than those stated in the preceding paragraph cannot exceed \$1.25 on each \$100 of taxable property outside incorporated cities and towns or \$2 on each \$100 of taxable property inside incorporated cities and towns.²⁶³

At least 2 days before the 2d Monday in September, each municipal corporation²⁶⁴ of the county files with the county auditor a statement of the tax levies and rates for the ensuing year, fixed by such municipal corporation, and at least two copies of the budgets on which such levies are based.²⁶⁵ The board of tax adjustment meets on the 2d Monday of September each year. At that meeting the auditor lays before the board these budgets, tax levies, and rates.²⁶⁶ It is the duty of the board of tax adjustment to examine, revise, change, or reduce (but not increase) any budget, tax levy, or rate, and to hold such budget within the total amount of revenue to be raised therefor from any source whatever. Any changes in budgets must be with respect to the total amounts budgeted for each office, and not the detailed items included in such budgeted classifications. While the board of tax adjustment endeavors to keep the rates within the limits above stated, if it decides that such rates are inadequate, it certifies to the state board of tax commissioners its analysis and recommendations together with such data and facts as may be deemed essential to review. The state board (proceeding according to the provisions governing appeals) then reviews the budgets and may authorize rates beyond the said limits.²⁶⁷

If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the levies and rates to the statutory limits aforesaid (\$2 per \$100 in cities and towns and \$1.25 per \$100 in other places), then the auditor calculates and fixes the rates, so that the total tax rate on property within any municipal corporation does not exceed said limits, and certifies

²⁶³ Acts 1937; Burns, 1940 suppl., 64-309; Baldwin, 1937 suppl., 15897-3.

²⁶⁴ The term "municipal corporation" includes counties, townships, cities, towns, school districts, sanitary districts, park districts, and all taxing units within the state. Acts 1937; Burns, 1940 suppl., 64-308; Baldwin, 1937 suppl., 15897-2.

²⁶⁵ Acts 1937; Burns, 1940 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

²⁶⁶ Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

²⁶⁷ Acts 1937; Burns, 1940 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

his action to each municipal corporation before October 6. Appeal to the state board of tax commissioners may be taken before October 16 by the municipal corporation or by 10 or more taxpayers. On the hearing of such appeals, the state board "may revise, change, or increase" the levy and rate in respect to total amounts budgeted by each office or department, but not as to detailed items. The levy and rate must be kept within the limit originally fixed by the municipal corporation. The state board certifies its decision to the county auditor before December 1, if possible. The budget, levy, and rate thereby fixed are final.²⁶⁸

After the budget, levy, and rate for each municipal corporation have been finally fixed and determined, as aforesaid, the appropriating body of each municipal corporation allocates the funds to be derived from such levy in such manner that the expenditures for the ensuing year will remain within the limitations as finally fixed in the manner stated in the two preceding paragraphs.²⁶⁹

If the county council determines that an emergency exists requiring expenditures for the current year not authorized by the budget as originally established, or as modified by the state board of tax commissioners, the council may make an additional appropriation and levy. The auditor then certifies the matter to the state board, and its decision thereon is final and conclusive.²⁷⁰

Between the 1st Monday in July and the last day of December, the auditor makes out and delivers to the treasurer a roll of taxes known and designated as the "tax duplicate." This contains several columns, and shows the names of taxpayers in alphabetical order, lands and improvements, mortgage deductions, corporate stock, personal property, valuations, poll taxes, assessments of omitted property, land transfers since the last assessment, and all alterations in the assessment lists made by the board of review or the state board of tax commissioners. He numbers each original township, city, and town in regular progression, as the same shall stand entered on the duplicate, retaining the same number from year to year. On or before January 1 he delivers

²⁶⁸ Acts 1937; Burns, 1940 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

²⁶⁹ Acts 1937; Burns, 1940 suppl., 64-315; Baldwin, 1937 suppl., 15897-9.

²⁷⁰ Acts 1899, 1907, 1913, 1937; Burns, 1940 suppl., 26-521; Baldwin, 1937 suppl., 5385.

Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

to the auditor of state a complete abstract of all property listed in each township, city, and town, showing valuations, mortgage deductions, number of polls, the amount of each kind of tax, the aggregate thereof in the county, and the rate of each kind assessed. A copy of the abstract is delivered to the treasurer, and another copy is kept by the county auditor.²⁷¹

Property taxes for state, county, township, city, and town purposes are payable to the county treasurer in two equal instalments on or before the 1st Monday in May and the 1st Monday in November, respectively, in the year following the year for which the property was assessed. If any instalment is not paid when it becomes due, such instalment becomes delinquent, and a penalty of 8 percent of such instalment is added. An additional penalty of 5 percent is added to any tax for each year the tax remains unpaid after the 1st Monday in November of the year in which the delinquency accrued.²⁷²

It is the duty of the county treasurer to collect all such property taxes after they become delinquent. He may levy on personal property at any time after the tax becomes delinquent, or before delinquency if he has good reason to believe the taxpayer is about to leave the county without payment, and sell the same after 10 days' notice of the time and place of sale. Suit in the name of the treasurer may be brought by the prosecuting attorney to collect taxes. Real estate may be sold at a tax sale, on the 2d Monday in April, after advertisement, but not until 15 months have elapsed since delinquency. The purchaser of real estate at a tax sale receives from the auditor a tax certificate which describes the realty, states the amount paid by the purchaser, and states when a tax deed (to be executed by the auditor) may be obtained by the holder of the certificate.²⁷³

²⁷¹ Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

²⁷² Acts 1919; Burns 64-1502; Baldwin 15748. Acts 1932 (Spec. Sess.); Burns 64-1508; Baldwin 15751. Acts 1935; Burns, 1940 suppl., 64-1542, 64-1544; Baldwin, 1935 suppl., 15765-1, 15765-3.

²⁷³ Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919; 1931; Burns 64-1518, 64-1701 to 64-1705, 64-2001, 64-2201, 64-2203 to 64-2211; Baldwin 15772, 15778 to 15782, 15794, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1940 suppl., 64-2202; Baldwin, 1937 suppl., 15807.

If a delinquent taxpayer has in the county personalty which is liable to pay his taxes, he may enjoin the sale of his realty for such delinquent taxes until such personalty is exhausted. *Bland v. Union Cent. Life Ins. Co.*, 209 Ind. 84, 198 N. E. 78 (1935); *Weaver v. Kauffman*, 57 Ind. App. 59, 106 N. E. 398 (1914).

The owner or occupant of any land sold for taxes, or any other person having an interest therein, may redeem the same at any time within 2 years after the sale and at any time thereafter before a tax deed is issued. Such deed may be issued by the auditor at any time between 2 and 4 years after the tax sale. The redeemer must pay to the treasurer the amount of the taxes and penalties for which the property was sold (as shown in the tax certificate), plus a penalty based on a percentage of such amount (10 percent if redeemed within 6 months after the sale, 15 percent if redeemed 6 months to 1 year after the sale, or 25 percent if redeemed more than 1 year after the sale), plus the cost of the tax sale, plus any subsequent taxes paid by the certificate holder, plus interest on such subsequent taxes at the rate of 6 percent per annum. No interest on such subsequent taxes can accrue later than 2½ years after the tax sale. The money so received by the treasurer is paid by him to the holder of the redeemed tax certificate.²⁷⁴

Ordinarily real estate cannot be sold at a tax sale for less than the amount of the taxes under which the sale is made, plus penalties, interest, and the pro rata share of costs of sale, and such sale is made subject to all other taxes. Where real estate has been twice offered for sale at separate public tax sales and no sufficient bid as aforesaid has been made, the property will be sold at a later public tax sale to the highest bidder for cash (without minimum limitation); and in such case where the aggregate amount of all delinquent taxes equals or exceeds the last assessed valuation of the real estate, the successful bidder is entitled to receive immediately a tax deed conveying the property free and clear of all taxes which became delinquent at least 15 months before the last sale.²⁷⁵

"Taxes are not a lien upon personal property. They are the personal obligation of the taxpayer, and become a lien only when the property is levied upon. The lien created by the levy is like the lien created by a levy upon execution. It is junior and inferior to prior existing liens." Held that a purchaser of personalty at a tax sale took title subject to a chattel mortgage recorded before the seizure to satisfy the tax. *Voigt v. Ludlow Typograph Co.*, 213 Ind. 329, 12 N. E. (2d) 499 (1938).

²⁷⁴ Acts 1919, 1931; Burns 64-2301, 64-2401, 64-2403; Baldwin 15819, 15832, 15811. Information obtained from E. P. Brennan, state examiner, on January 22, 1940, by W. Davis Hamilton.

Infants, idiots, and insane persons may redeem their lands within 2 years after expiration of disability. Acts 1919; Burns 64-2302; Baldwin 15820.

²⁷⁵ Acts 1932 (Spec. Sess.); Burns 64-1509; Baldwin 15752. Acts 1919; Burns 64-1516,

EXCISE TAXES AND LICENSING

The tax on financial institutions is an excise tax²⁷⁶ (in lieu of all other taxes) on banks, trust companies, and building and loan associations. It is administered by the county auditor and treasurer under the supervision of the state board of tax commissioners.²⁷⁷

The inheritance tax is an excise tax administered by the county assessor and treasurer, under the supervision of the state board of tax commissioners, and by the circuit court. A schedule must be filed with the court within 12 months after the decedent's death. Notice is given to the interested parties, the estate is appraised, and the court determines the amount of tax due. The court appoints the county assessor to act as the appraiser in every estate; and he appraises all property at the fair market value, as of the date of the transfer.²⁷⁸ The appraiser makes his report in duplicate, one copy to the court and one to the state board of tax commissioners.²⁷⁹ The treasurer collects the tax and issues a receipt in duplicate, one copy of which is sent to the state board; and no final accounting of an estate is made until such receipt is countersigned by that board.²⁸⁰ The county treasurer must report quarterly to the auditor of state all inheritance taxes received by him. All such collected taxes are transmitted by the county treasurer, through a warrant issued by the county auditor, to the treasurer of state.²⁸¹ When directed by the court to do so, the prosecuting attorney sues to collect the tax.²⁸²

The intangible tax²⁸³ is a stamp tax on notes, stocks,

64-2204; Baldwin 15759, 15809. Acts 1919, 1931, 1937; Burns, 1940 suppl., 64-2202; Baldwin, 1937 suppl., 15807. *Opinions of the Attorney General of Indiana, 1938*, p. 255; 1939, p. 211.

²⁷⁶ Lutz v. Arnold, 208 Ind. 480, 193 N. E. 840 (1935).

²⁷⁷ Acts 1933; Burns 64-801 to 64-834; Baldwin 15582 to 15615. *Opinions of the Attorney General of Indiana, 1939*, p. 252.

²⁷⁸ Acts 1931, 1933; Burns 6-2403; Baldwin 15946. Acts 1931, 1933, 1937; Burns, 1940 suppl., 6-2407; Baldwin, 1937 suppl., 15945. *Opinions of the Attorney General of Indiana, 1939*, p. 326. "Inheritance Tax," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 32-39.

²⁷⁹ Acts 1931; Burns 6-2410; Baldwin 15948.

²⁸⁰ Acts 1931; Burns 6-2413; Baldwin 15951.

²⁸¹ Acts 1931; Burns 6-2414; Baldwin 15952.

Refunds of inheritance taxes. *Opinions of the Attorney General of Indiana, 1939*, p. 38.

²⁸² Acts 1931; Burns 6-2415; Baldwin 15953.

²⁸³ The intangible tax is an excise tax. Lutz v. Arnold, 208 Ind. 480, 193 N. E. 840 (1935).

bonds, and other evidences of property interests or obligations for payment of money. This tax is administered by the county assessor²⁸⁴ and treasurer, under the supervision of the state board of tax commissioners. Stamps are issued by the state board and sold by the county treasurer.²⁸⁵ The taxpayer is required to file with his tangible personal property schedule an affidavit showing that he has complied with the intangible tax law.²⁸⁶ If the tax is not paid when due, it is entered on the tax duplicate of the county where the taxpayer resides or his property is located, in the manner, in which omitted property is assessed for property taxes, and becomes a lien upon all property of the taxpayer in the county.²⁸⁷ Suit for collection may be brought by the prosecuting attorney or the attorney general.²⁸⁸

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor. After making assessment of personal property for property taxes each township assessor makes inquiry concerning dogs and kennels, collects the excise tax thereon for the ensuing year, and issues licenses and receipts. The county auditor collects the tax and issues licenses and receipts if the township assessor fails to do so.²⁸⁹ The money so collected constitutes a fund known as the "dog fund," and is used to pay for damage to or loss of livestock caused by dogs or rabies. Dog funds exceeding \$100, over and above all warrants drawn on the same, in any township on the 1st Monday in March are transferred on the following Monday to townships in which the dog fund is less than the warrants drawn thereon.²⁹⁰

²⁸⁴ Acts 1933; Burns 64-917; Baldwin 15915. Acts 1933, 1935; Burns, 1940 suppl., 64-906; Baldwin, 1935 suppl., 15904. "Valuation of Intangibles," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 39-53.

Mortgage which does not create a personal liability is subject to intangible tax. *Opinions of the Attorney General of Indiana, 1939*, p. 222.

²⁸⁵ Acts 1933; Burns 64-924, 64-927; Baldwin 15922, 15925.

²⁸⁶ Acts 1933; Burns 64-918; Baldwin 15916.

²⁸⁷ Acts 1933, 1935; Burns, 1940 suppl., 64-915; Baldwin, 1935 suppl., 15913.

Actions on documents on which tax has not been paid. 106 Ind. App. 61, 17 N. E. (2d) 870 (1938); *Davia v. Bankers Trust Co.*, 106 Ind. App. 422, 20 N. E. (2d) 686 (1939).

²⁸⁸ Acts 1933; Burns 64-921; Baldwin 15919.

²⁸⁹ Acts 1937; Burns, 1940 suppl., 16-317; Baldwin, 1937 suppl., 3811-1.

²⁹⁰ Acts 1937; Burns, 1940 suppl., 16-324 to 16-326; Baldwin, 1937 suppl., 3811-8 to 3811-10.

Dog tax is for protection of property, not to provide revenue for public purposes. Excess funds in the county must be paid to the auditor of state in accordance with the 1937 law, not to

The clerk of the circuit court issues licenses for marriages,²⁹¹ physicians, surgeons,²⁹² midwives,²⁹³ osteopaths,²⁹⁴ chiropractors, drugless healers,²⁹⁵ dentists,²⁹⁶ optometrists,²⁹⁷ hunting, trapping, fishing,²⁹⁸ poultry dealers,²⁹⁹ and junk dealers.³⁰⁰ He registers certificates of trained nurses.³⁰¹ Formerly he issued liquor licenses,³⁰² brokers' licenses,³⁰³ licenses for veterinarians,³⁰⁴ stal-

schools under the 1929 law. *Finerty v. State ex rel. School City of Gary*, 213 Ind. 470, 12 N. E. (2d) 941 (1938).

²⁹¹ Rev. Stat. 1838, ch. 68, sec. 3. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. 1 Rev. Stat. 1852, Acts 1939; Burns, 1940 suppl., 44-201; Baldwin, 1939 suppl., 5622.

The judge of the circuit court may waive certain provisions of the law requiring laboratory tests and medical certificates. Acts 1939; Burns, 1940 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Injunction to prevent illegal issuance of license. *Swiegart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

Common-law marriage. *Young v. General Baking Co.*, 104 Ind. App. 658, 12 N. E. (2d) 1016 (1938).

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington*, 213 Ind. 347, 12 N. E. (2d) 758 (1938).

²⁹² Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

²⁹³ Acts 1897; Burns 63-1309; Baldwin 10709.

²⁹⁴ Acts 1901; Burns 63-1316; Baldwin 10716.

²⁹⁵ Acts 1927; Burns 63-1312; Baldwin 10713.

²⁹⁶ Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1940 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

²⁹⁷ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1940 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

²⁹⁸ Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1940 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

²⁹⁹ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

³⁰⁰ Acts 1905; Burns 42-703; Baldwin 10462.

³⁰¹ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

³⁰² This duty existed from the organization of the county until 1841 and from 1917 to 1933. Acts 1816-17, ch. 15, sec. 6. Acts 1817-18 (general), ch. 47, secs. 1, 2. Acts 1820-21, ch. 36, secs. 1, 2. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, sec. 6. Rev. Stat. 1838, ch. 21, sec. 6; ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Acts 1917, ch. 4, secs. 6, 7, 12. Acts 1925, ch. 48, secs. 10, 11. Acts 1933, ch. 79, sec. 1.

³⁰³ Acts 1840-41 (general), ch. 5, sec. 18.

³⁰⁴ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

lions,³⁰⁵ and petty money lenders,³⁰⁶ and kept a register of certificates of agents of foreign insurance companies.³⁰⁷

The judges of the circuit court and superior court have authority to issue licenses to carry pistols. When the judge grants an application for such license, he usually orders the clerk of the circuit court to issue the license; and in issuing such licenses the clerk acts for the judge.³⁰⁸ The sheriff issues licenses for the retail sale of pistols.³⁰⁹

The county auditor issues licenses for peddlers, shows, theaters,³¹⁰ transient merchants,³¹¹ public warehouses,³¹² and ferries.³¹³ He issued liquor licenses before 1917.³¹⁴ The board of commissioners authorizes the issuance of ferry

³⁰⁵ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

³⁰⁶ Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

³⁰⁷ Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. Acts 1865, 1877, 1899; Burns 39-1701; Baldwin 9567. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

³⁰⁸ Acts 1913, ch. 167, sec. 1 (repealed by Acts 1917, ch. 125, sec. 6). Acts 1925, 1929; Burns 10-4721, 10-4723, 10-4725; Baldwin 2557, 2559, 2561 (all repealed by Acts 1935, ch. 63, sec. 21). Acts 1935, 1937; Burns, 1940 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5. *Opinions of the Attorney General of Indiana*, 1937, p. 242.

³⁰⁹ Acts 1935, 1937; Burns, 1940 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the superintendent of the state police. *Ibid.*

³¹⁰ Acts 1917, 1937; Burns, 1940 suppl., 42-201; Baldwin, 1937 suppl., 10443. 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1901; Burns 42-502, 42-503; Baldwin 10470-1, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

³¹¹ Acts 1901; Burns 42-402; Baldwin 10491.

The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Ibid.*

³¹² Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

³¹³ Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 17, secs. 1-23. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1940 suppl., 42 201; Baldwin, 1937 suppl., 10443.

³¹⁴ Rev. Stat. 1838, ch. 105, secs. 1-10. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 8, sec. 3; ch. 20, secs. 7, 14; ch. 92, sec. 1. Acts 1853, ch. 66, secs. 1-4. Acts 1855, ch. 105, secs. 4-8; ch. 106, secs. 1, 2. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.); ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 23; ch. 148, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

licenses,⁸¹⁵ and before 1917 authorized the issuance of liquor licenses.⁸¹⁶

FEEs

The laws provide for the charging of fees by various county officials. Salaried officials cannot disburse their fees for office expense, or retain the fees or interest thereon as compensation, unless a statute enacted since 1932 specifically authorizes them to do so. Such fees must be paid into the county treasury. An officer cannot draw any salary while illegally withholding fees.⁸¹⁷

County officials may charge and collect only such fees as are allowed by statute.⁸¹⁸ If an officer collects illegal fees, the county cannot recover them from him, since they belong to the person paying the same.⁸¹⁹ If the officer unlawfully refuses to pay over fees collected by him, an action lies on his bond;⁸²⁰ and if he pays over fees which he is entitled to retain, he may sue to recover the same.⁸²¹

All officers are required to keep complete records of all fees received from any source whatever. Such records

⁸¹⁵ Acts 1807, ch. 33 (misnumbered 31), secs. 1, 6; ch. 51, sec. 14. Acts 1816-17, ch. 29, sec. 2. Rev. Stat. 1838, ch. 41, secs. 1-4, 8, 11. Rev. Stat. 1843, ch. 17, secs. 1-23. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1940 suppl., 42-201; Baldwin, 1937 suppl., 10443.

⁸¹⁶ Acts 1807, ch. 17, secs. 1, 4. Acts 1813, ch. 3, sec. 2. Acts 1817-18 (general), ch. 47, secs. 1, 2. Rev. Stat. 1838, ch. 105, secs. 1-10. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92, sec. 1. Acts 1853, ch. 66, sec. 8. Acts 1855, ch. 105, secs. 4-8; ch. 106, sec. 4. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130, secs. 1-7. Acts 1873, ch. 59, secs. 1-5, 20. Acts 1875 (Spec. Sess.), ch. 13, secs. 1-9, 21. Acts 1895, ch. 127, secs. 1, 8-10. Acts 1897, ch. 167, secs. 1-3. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-8, 16, 28; ch. 143, secs. 1, 2, 7-9, 11. Acts 1915, ch. 10, sec. 1. Acts 1917, ch. 4, secs. 4, 40.

⁸¹⁷ Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1895; Burns 49-1410; Baldwin 7585. *Keifer v. Summers*, 137 Ind. 106, 35 N. E. 1103 (1894); *Applegate v. State ex rel. Pettijohn*, 205 Ind. 122, 185 N. E. 911 (1933); *Board of County Comrs. v. Lewis*, 81 Ind. App. 601, 144 N. E. 623 (1924).

⁸¹⁸ *Noble v. Board of County Comrs.*, 101 Ind. 127 (1885); *Legler v. Paine*, 147 Ind. 181, 45 N. E. 604 (1896).

⁸¹⁹ *State ex rel. Board of County Comrs. v. Williams*, 39 Ind. App. 376, 77 N. E. 1137 (1906).

⁸²⁰ Acts 1883; Burns 49-142; Baldwin 13094. *Workman v. State ex rel. Board of County Comrs.*, 165 Ind. 42, 73 N. E. 917 (1905).

⁸²¹ *Board of County Comrs. v. Crone*, 36 Ind. App. 283, 75 N. E. 826 (1905).

are subject to public inspection at any time, and must be examined by the board of commissioners at their meetings.³²²

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report of fees to the auditor.³²³ The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years. The auditor enters such lists in the order book (commonly called the "Commissioners' Record") of the board of commissioners and issues a quietus for the items of such lists which have been paid over to the county treasurer.³²⁴

FUNDS RECEIVED FROM THE STATE

The counties receive from the state a portion of the funds in the motor vehicle highway account of the state. This account is composed of excise taxes on motor vehicle fuel, motor vehicles, operators, and chauffeurs.³²⁵ The portion allotted to the counties is distributed on the basis of vehicular miles of county roads in each county as compared with the total in all counties. The 1937 law recites that there are 57,843 miles in Tippecanoe County and 4,536,856 miles in all of the counties, but provision is made for a recount by the state highway commission and a change in allocation based thereon.³²⁶ Such funds are used by the county for construction and maintenance of county roads; and 20 percent of such funds may be used to pay off outstanding county-unit road bonds.³²⁷

The counties receive from the state a portion of the license fee on liquor dealers. Distribution of such portion among the counties is based on the amount paid in for li-

³²² Acts 1895; Burns 49-1401, 49-1409; Baldwin 7576, 7584. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443. Acts 1909; Burns 60-213; Baldwin 13861.

³²³ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

³²⁴ Acts 1841-42 (general), ch. 45, sec. 3. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

³²⁵ Acts 1937; Burns, 1940 suppl., 36-2801; Baldwin, 1937 suppl., 8695-1.

³²⁶ Acts 1937; Burns, 1940 suppl., 36-2803; Baldwin, 1937 suppl., 8695-8.

³²⁷ Acts 1937, 1939; Burns, 1940 suppl., 36-2804 to 36-2806; Baldwin, 1939 suppl., 8695-4; Baldwin, 1937 suppl., 8695-5, 8695-6.

censes with respect to dealers' premises located outside cities and towns in each county, as compared with the total for such areas in all counties.³²⁸

Each county receives from the state (including federal funds), as reimbursement, about 81 percent of the money spent by the county for welfare assistance.³²⁹

The counties receive a portion of the intangible tax. Distribution of such portion among the counties is based on the assessed valuation of the real property in each county, as compared to the total in all counties. One-fourth of the amount received by the county goes into the general fund of the county; and the remainder goes to the school funds of the township, city, and town taxing units within the county, on a basis of valuation of the real property in each unit.³³⁰ School funds are discussed hereinafter under the heading "Education."

CLAIMS AND ALLOWANCES

Claims against the county, duly itemized and verified, in writing on forms furnished by the board of commissioners, may be filed with the auditor, who places them on the claim docket and thereafter presents them to the board for decision. At a regular or special session of the board of commissioners, beginning at least 5 days after the docketing of the claim and 3 days after publication of notice by the auditor, the commissioners must examine the merits of the claim and may, in their discretion, allow it, in whole or in part, as they find it to be just and owing.³³¹ The board cannot allow a claim that it previously disallowed.³³²

A claim for materials and supplies will not be allowed unless accompanied by a certificate of the auditor showing that the goods mentioned in the claim correspond in quality and prices with the contract.³³³ A claim on a contract for

³²⁸ Acts 1935, 1937, 1939; Burns, 1940 suppl., 12-505, 12-811; Baldwin, 1939 suppl., 3764-7, 3764-40 (f).

³²⁹ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1405, 52-1412; Baldwin, 1937 suppl., 14078-117, 14078-124. Information obtained from Frank G. Thompson, auditor of state, on March 31, 1939, by W. Davis Hamilton.

³³⁰ Acts 1933; Burns 64-922; Baldwin 15920.

³³¹ Acts 1899; Burns 26-538, 26-804; Baldwin 5403, 5255. Acts 1879 (Spec. Sess.); Burns 26-805, 26-807; Baldwin 5254, 5256. Acts 1897; Burns 26-806, 26-809; Baldwin 5260, 5257. Acts 1931; Burns 26-816 to 26-819; Baldwin 5268 to 5271.

³³² Myers v. Gibson, 152 Ind. 500, 53 N. E. 646 (1899).

³³³ Acts 1899; Burns 26-538; Baldwin 5403.

work to be conducted under the supervision of the county surveyor, or any architect, engineer, superintendent, or inspector appointed by the board of commissioners, must be accompanied by a certificate of the surveyor or such agent, showing that the work therein mentioned was performed according to contract and that the amount claimed is due and owing by the terms of the contract.³⁸⁴ A claim based on judgment or order of a court must be accompanied by a certified copy of such judgment or order.³⁸⁵

An allowance not called for within 5 years may be canceled.³⁸⁶ Preference in payment is given to claims for money advanced by any county officer for use of the county pursuant to provisions of law or of any order of the board.³⁸⁷ However, no allowance can be made by the board of commissioners to one of its members for articles furnished by him to the county under a contract or otherwise.³⁸⁸

Any person feeling aggrieved by any decision of the board on any claim may appeal to the circuit court or superior court. In case of disallowance in whole or in part, the claimant may appeal as aforesaid or bring an independent suit against the board. The claimant must pay the costs of the appeal if he does not recover more on the appeal than was allowed by the board.³⁸⁹ No complaint other than the claim (including certificates and exhibits if any) presented to the board is required on appeal.³⁹⁰ If the board allows only a part of the claim, and the claimant accepts payment of the amount allowed, he cannot bring suit for the remainder.³⁴¹

In pursuance of appropriations by the county council,³⁴² the judges of the circuit court and superior court may make allowances against the county for expense of administration of justice.³⁴³ Such allowances include compensation of wit-

³⁸⁴ Acts 1899; Burns 26-539; Baldwin 5404.

³⁸⁵ Acts 1911; Burns 26-814; Baldwin 5265.

³⁸⁶ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

³⁸⁷ 1 Rev. Stat. 1852; Burns 26-802; Baldwin 5252.

³⁸⁸ Waymire v. Powell, 105 Ind. 328, 4 N. E. 886 (1886).

³⁸⁹ Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

³⁴⁰ Board of County Comrs. v. Wertz, 112 Ind. 268, 13 N. E. 874 (1887).

³⁴¹ Western Constr. Co. v. Board of County Comrs., 178 Ind. 684, 98 N. E. 347 (1912).

³⁴² Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

³⁴³ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

nesses,³⁴⁴ jurors,³⁴⁵ master commissioners,³⁴⁶ sheriff,³⁴⁷ bailiffs,³⁴⁸ court reporter,³⁴⁹ court page,³⁵⁰ and attorneys appointed to represent poor persons.³⁵¹

Within 10 days after adjournment of the session of the board of commissioners, circuit court, or superior court, at which allowances against the county are made, the auditor publishes notice showing all allowances made by the board or court. A warrant on an allowance by a court cannot be issued until 3 days after such publication.³⁵²

The county director of public welfare may make allowances for welfare assistance; and the clerk of the circuit court makes allowances for clothing for insane paupers in institutions.³⁵³

CUSTODY AND DISBURSEMENT OF FUNDS

The treasurer receives all money coming to the county, and disburses it on proper warrants (formerly called orders) issued by the auditor and countersigned by the treasurer.³⁵⁴

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.³⁵⁵ The board designates depositories for public funds, after inviting and receiving proposals from banks and trust companies.

³⁴⁴ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

³⁴⁵ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

³⁴⁶ Acts 1831 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

³⁴⁷ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

³⁴⁸ Acts 1921, 1935; Burns, 1940 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

³⁴⁹ Acts 1921, 1939; Burns, 1940 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

³⁵⁰ *Opinions of the Attorney General of Indiana, 1939*, p. 312.

³⁵¹ Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

³⁵² Acts 1898; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817; Baldwin 5269.

³⁵³ Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25. *Morris v. State ex rel. Brown*, 96 Ind. 597 (1884).

³⁵⁴ Acts 1899, 1935; Burns, 1940 suppl., 26-522; Baldwin, 1935 suppl., 5386. 1 Rev. Stat. 1852; Burns 49-3103; Baldwin 5550. Acts 1937; Burns, 1940 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³⁵⁵ Acts 1937; Burns, 1940 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

The commission of a depository may be revoked by the board at any time.³⁵⁶ The resignation of a depository becomes effective 30 days after notice thereof to the board.³⁵⁷ Monthly statements are furnished by the depository to the board on or before the 5th day of each month, and are preserved in the office of the board.³⁵⁸ All public funds paid into the county treasury must be deposited by the treasurer daily, in the name of the county, in one or more of such designated depositories. On or before the 5th day of each month, the treasurer must file with the secretary of the board a statement of the balance of funds at the end of the previous month, consistent with the statement furnished by the depository.³⁵⁹ The treasurer deposits quarterly with the auditor all redeemed warrants.³⁶⁰

When the auditor draws a warrant, he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.³⁶¹ Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose of the warrant were entered in a book as prescribed by statute.³⁶² The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.³⁶³ Before issuing a warrant or quietus, the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.³⁶⁴

³⁵⁶ Acts 1937; Burns, 1940 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

³⁵⁷ Acts 1937; Burns, 1940 suppl., 61-640; Baldwin, 1937 suppl., 13844-61.

³⁵⁸ Acts 1937; Burns, 1940 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

³⁵⁹ Acts 1937; Burns, 1940 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

Defunct depositories. *State ex rel. Jackson v. Middleton*, 215 Ind. 219, 19 N. E. (2d) 470 (1939), *Opinions of the Attorney General of Indiana, 1939*, p. 247.

³⁶⁰ 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

³⁶¹ Acts 1899; Burns 26-544; Baldwin 5409.

³⁶² 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, state examiner, on August 15, 1939, by W. Davis Hamilton.

³⁶³ 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

³⁶⁴ Acts 1909; Burns 60-215; Baldwin 13866.

On claims (including claims on judgments) allowed by the board of commissioners, and on allowances made by courts for the cost of administration of justice, and on allowances by the clerk of the circuit court for clothing of insane paupers in institutions, and on allowances by the county director of public welfare for welfare assistance, the auditor issues his warrants. But warrants may be issued to pay judgments, for expenses of insanity inquests, for management of the school funds, for clothing the insane, and for salaries or other liabilities for specific amounts fixed by law, when no allowance has been made as aforesaid.³⁶⁵ Warrants not called for within 5 years after the allowance of the claims on which they were drawn may be canceled by the board of commissioners, if not called for after publication of notice.³⁶⁶

A warrant drawn by the auditor on the treasurer must be accompanied by a carbon copy thereof, except in the case of state and township funds. If funds are available to pay the warrant, the treasurer, on presentation to him, detaches and retains the carbon copy, and countersigns the original and stamps thereon the name of the depository by which it is payable. The original warrant is delivered to the payee, and the amount thereof is paid to the payee by the depository on presentation and surrender of the warrant. For the convenience of the payee, the treasurer may pay cash to the holder, on taking an assignment of the warrant, in which event such warrant will be deposited by the treasurer in the depository in lieu of cash.³⁶⁷ The treasurer must deduct any delinquent taxes owing by the payee.³⁶⁸ If no funds are available to pay the warrant, the treasurer endorses thereon the words "not paid for want of funds" and the date of such presentment; and thereafter the warrant draws legal interest. Interest ceases when funds become available for payment and the treasurer or auditor publishes a call for redemption.³⁶⁹

³⁶⁵ Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4203. Acts 1897; Burns 26-609; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25. Acts 1937; Burns, 1940 suppl., 61-627; Baldwin, 1937 suppl., 13844-48. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

³⁶⁶ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

³⁶⁷ 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558. Acts 1937; Burns, 1940 suppl., 61-627 Baldwin, 1937 suppl., 13844-48.

³⁶⁸ Acts 1919; Burns 64-1506; Baldwin 15763.

³⁶⁹ Acts 1889; Burns 49-2007, 49-3008; Baldwin 5420, 5421. 1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

Outstanding warrants are redeemed by the treasurer according to priority of time of presentment. Such warrants must be received in payment of county taxes without regard to such priority.³⁷⁰ When the treasurer redeems a warrant on which interest is due, he makes a notation thereon, and also in his account, showing the amount of interest paid.³⁷¹

Every public officer who receives or distributes public funds must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be kept open to public inspection.³⁷² The treasurer keeps records of all receipts and disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds. Current taxes are not entered on his account with the county until after his annual statement.³⁷³ At the end of March, June, September, and December, the treasurer makes out a report showing the amount of money in the county treasury and each distinct fund thereof. The report is examined by the board of commissioners at its next regular session.³⁷⁴

The treasurer gives a receipt for all money paid to him, which receipt (except for taxes) must be deposited by the payer with the auditor, who gives a quietus for the same.³⁷⁵

The board of commissioners, at its first regular session each year, makes out a statement of the receipts and expenditures for the previous calendar year, and causes it to be published and posted.³⁷⁶ The treasurer makes complete settlements with the board of commissioners at its January session each year.³⁷⁷ Settlements by the board of commis-

³⁷⁰ 1 Rev. Stat. 1852; Burns 49-3113; Baldwin 5560.

³⁷¹ 1 Rev. Stat. 1852; Burns 49-3112; Baldwin 5559.

³⁷² Acts 1937; Burns, 1940 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

³⁷³ 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

³⁷⁴ Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

³⁷⁵ 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3104; Baldwin 5551.

³⁷⁶ Acts 1899; Burns 26-546; Baldwin 5411.

³⁷⁷ Acts 1899; Burns 26-531; Baldwin 5395.

Formerly the settlement was made in June. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

The state board of accounts now requires that settlements be recorded in the monthly balance record of the auditor and treasurer. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

Formerly the settlements were recorded in the order book (commonly called the "Commissioners' Record") of the board of commissioners. Acts 1899; Burns 26-531; Baldwin 5395.

sioners are not binding on the county where the officer has failed to account for any money received by virtue of his office or failed to perform any duty required of him by law.³⁷⁸

All taxes collected by the treasurer must be deposited in the depository as one fund except when otherwise provided by law. Semiannually the treasurer settles with the state and the municipal corporations within the county for taxes collected for them. Before such settlements, he advances not exceeding 80 percent when requested by the proper officer is made to the auditor and a warrant is drawn by him.³⁷⁹

From time to time without notice, the books and accounts of county officers are audited by the state examiner. Before 1909 the judge of the circuit court examined the office of the clerk of the circuit court and reported thereon to the board of commissioners; and the board of commissioners examined other county offices.³⁸⁰

PUBLIC DEBT

The Constitution of 1851 provides that the total amount of the county debt shall not exceed 2 percent of the value of the taxable property therein,³⁸¹ and a statute provides that such debt shall not exceed 2 percent of the taxable property less the total of all mortgage exemptions.³⁸²

The borrowing of money for the county must be authorized by ordinance of the county council.³⁸³ The notes, bonds, or other evidence of indebtedness are executed by the county commissioners and attested by the auditor.³⁸⁴ The obligations may bear interest at a rate not exceeding 6 percent per an-

³⁷⁸ Acts 1879 (Spec. Sess.); Burns 26-637; Baldwin 5341.

³⁷⁹ Acts 1937; Burns, 1940 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

³⁸⁰ 1 Rev. Stat. 1852, Acts 1935; Burns, 1940 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909, 1915; Burns 60-201, 60-211; Baldwin 13854, 13862. *Opinions of the Attorney General of Indiana, 1939*, p. 184. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

³⁸¹ Const. 1851, art. 13, sec. 1. Exception is made in case of war, foreign invasion, or other public calamity. *Ibid.*

Bonds for construction of an interstate bridge, payable only from proceeds of bridge tolls, held not a debt within the meaning of this constitutional provision. Same ruling as to costs of highway maintenance. *Bennett v. Spencer County Bridge Commission*, 213 Ind. 520, 13 N. E. (2d) 547 (1938).

³⁸² Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396.

³⁸³ *Ibid.*

³⁸⁴ Acts 1899, 1921; Burns 26-540; Baldwin 5465.

num. If the interest rate exceeds 5 percent the issuance must be approved by the state board of tax commissioners.³⁸⁵ The council may provide for maturities at any time not exceeding 52 years from issuance.³⁸⁶

The bonds are issued after publication of notice, and must be sold for an amount not less than par value and accrued interest. If the amount of bond issue is to exceed \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified to the state board of tax commissioners for hearing and disposition.³⁸⁷

Temporary loans, evidenced by tax anticipation notes or warrants, may be authorized to meet current running expenses to an amount not exceeding the revenue for the current year, and only as an anticipation of such revenue. It is the duty of the county council each year to levy an annual tax to pay all such temporary loans.³⁸⁸

The county council must make a levy of not less than one-tenth of 1 percent on the taxable property of the county each year, for the purpose of retiring bonds previously issued; and the taxes collected therefrom must be invested in those bonds or other county securities, and shall constitute a sinking fund for the ultimate liquidation of such debt.³⁸⁹ The council must also levy each year a tax sufficient to pay interest for the year on bonds previously issued. If more taxes are collected under this levy than are needed to pay interest, such excess goes into the sinking fund to pay the principal.³⁹⁰

ELECTIONS

In Indiana there are three types of elections: Primary, special, and general. Primary elections are for the purpose of nominating party candidates for all offices (other than

³⁸⁵ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

³⁸⁶ Acts 1899, 1921, 1929; Burns 26-532, 61-401; Baldwin 5396, 13896.

³⁸⁷ Acts 1899, 1921; Burns 26-540; Baldwin 5405. Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

³⁸⁸ Acts 1899, 1921, 1929; Burns 26-532; Baldwin 5396. Acts 1933; Burns 26-1022; Baldwin 5397.

³⁸⁹ 1 Rev. Stat. 1852, Acts 1859; Burns 26-1006; Baldwin 5247. Acts 1899; Burns 26-515; Baldwin 5379.

³⁹⁰ 1 Rev. Stat. 1852; Burns 26-1007; Baldwin 5248.

those to be voted on by the entire electorate of the state) and electing precinct committeemen and delegates to state conventions of political parties. The primary election is mandatory for each political party in the state casting for its candidate for secretary of state 10 percent or more of the aggregate vote cast for all candidates for secretary of state in the last general election.³⁹¹ All election days are legal holidays in the district or city where the election is held.³⁹² Special elections are held to fill vacancies in the Indiana General Assembly, vacancies in the office of Representative in Congress, and vacancies in offices required to be filled by special election. They are also held to fill all offices (except city and township) in case of a tie vote. They are ordered by the governor, announced by the sheriff, and conducted in the manner in which general elections are conducted.³⁹³ The general election, held biennially, is for the purpose of filling existing vacancies in office and filling all offices the terms of which will expire before the next general election thereafter.³⁹⁴

Primary elections are held on the 1st Tuesday after the 1st Monday in May preceding the general elections.³⁹⁵ They are held under the supervision of the board of primary election commissioners, consisting of the clerk of the circuit court and two persons (from the two major political parties nominated by their respective county chairmen) appointed by him. This board prepares and distributes ballots for the primary elections.³⁹⁶ It serves as the county board of election commissioners at the next general election³⁹⁷ and as a canvassing board for all elections.³⁹⁸

³⁹¹ Acts 1915; Burns 29-501; Baldwin 7187.

³⁹² Acts 1889; Burns 29-1613; Baldwin 7171.

³⁹³ Acts 1905; Burns 29-1406; Baldwin 7382. Acts 1881 (Spec. Sess.); Burns 29-1505, 29-1701 to 29-1704; Baldwin 7182, 7246 to 7249. Acts 1933; Burns 29-1903; Baldwin 7252. Acts 1905, 1909; Burns 48-1246; Baldwin 11424.

³⁹⁴ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

³⁹⁵ Acts 1915, 1917; Burns 29-508; Baldwin 7194.

³⁹⁶ Acts 1907, ch. 282, secs. 1, 13. Acts 1915, 1917; Burns 29-504; Baldwin 7190. See the essay entitled "Board of Primary Election Commissioners."

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." State *ex rel.* Marion County Democratic Committee v. Marion Superior Court, 214 Ind. 322, 15 N. E. (2d) 379 (1938).

³⁹⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

³⁹⁸ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

. Primary elections are conducted by the following officials for each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one pollbook holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote for secretary of state at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and pollbook holders are appointed in the manner in which they are appointed for general elections.³⁹⁹

General elections are held biennially on the 1st Tuesday after the 1st Monday in November of even-numbered years.⁴⁰⁰ County officers elected by the people are county commissioners, county councilmen, judge of the circuit court, judge of the superior court, clerk of the circuit court, auditor, treasurer, sheriff, coroner, recorder, prosecuting attorney, surveyor, and county assessor.⁴⁰¹ These elections are held under the supervision of the county board of election commissioners, which prepares and distributes the ballots therefor.⁴⁰²

For a general election the county board of election commissioners appoints the election officials for each precinct, namely, one election inspector, two election judges, two poll clerks (and two assistant poll clerks if necessary), and two election sheriffs. The election inspector and election judges constitute the precinct board of election. The other precinct officials assist this board in conducting the general election. The election judges, poll clerks, and election sheriffs must be qualified voters of opposite political faith. They are nominated by the chairmen of their respective county central committees. The inspector and judges must have been freeholders and resident householders of the precinct for at least 1 year, or resident householders therein for at least 2 years preceding the election, unless persons having these qualifications are not available. The inspector of elections

³⁹⁹ Acts 1915, 1917; Burns 29-505, 29-507; Baldwin 7191, 7193.

⁴⁰⁰ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

⁴⁰¹ See the separate essays for these offices.

⁴⁰² Acts 1889; Burns 29-1002; Baldwin 7109. See the essay entitled "County Board of Election Commissioners."

is nominated by the chairman of the party casting the highest number of votes in the county in the last election for secretary of state. The township trustee serves as the election inspector in the precinct in which he resides unless he is disqualified. Each party may appoint one challenger and one pollbook holder in each precinct to represent that party in the challenge of voters.⁴⁰³

The constitution provides that all elections shall be "free and equal," prescribes the length of residence required of an elector, designates the time of holding elections, and gives the legislature power to provide for the registration of voters.⁴⁰⁴

All voters at general elections and state-wide special elections must be duly registered for voting;⁴⁰⁵ must be citizens of the United States; must be of the age of 21 years and upwards at the time of the election; and must have resided in the state 6 months, in the township 60 days, and in the ward or precinct 30 days, immediately preceding the election. Any person who has these qualifications may vote at the primary election next preceding the general or special election. If he is not so qualified at the time of the primary election but will be so qualified at the time of the general or special election, he may vote in the primary election on making an affidavit in the form required by law for such voters.⁴⁰⁶ Soldiers, sailors, and marines acquire no residence in the state for voting purposes by virtue of being stationed therein.⁴⁰⁷ The registration officer (the clerk of the circuit court ex officio) conducts the registration of voters.⁴⁰⁸

Any political or civic party, association, or organization may, at any time prior to any election, take a poll of voters qualified to vote at the next ensuing election, in any district, county, township, municipality, ward, precinct,

⁴⁰³ Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

⁴⁰⁴ Const. 1851, art. 2, secs. 1, 2, 14.

⁴⁰⁵ Acts 1933; Burns 29-301; Baldwin 7299. Acts 1933, 1935; Burns, 1940 suppl., 29-336; Baldwin, 1935 suppl., 7334. See the essay entitled "Registration Officer."

⁴⁰⁶ U. S. Const., amends. 14, 19. U. S. C., title 8, sec. 31 (law of 1870). Const. 1851, art. 2, sec. 2 (as amended in 1921). Acts 1915, 1917; Burns 29-510; Baldwin 7196. Acts 1891 (Spec. Sess.); Burns 29-703; Baldwin 7083. *Kelso v. Cook*, 184 Ind. 173, 110 N. E. 987 (1916).

⁴⁰⁷ Const. 1851, art. 2, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-705; Baldwin 7085.

⁴⁰⁸ Acts 1933, 1935; Burns, 1940 suppl., 29-306; Baldwin, 1935 suppl., 7304.

or precincts of the state. The chairman, president, or other chief officer of the party, association, or organization taking such poll must issue to the person or persons employed in taking the poll a certificate showing the nature of such employment and the party, organization, or association for which the poll is taken. Failure to furnish correct information to these poll takers is punishable as a criminal offense.⁴⁰⁹

The board of county commissioners participates in various ways in the conduct of elections. The more important functions of the board in that connection are those of establishing election precincts and changing their boundaries;⁴¹⁰ providing rooms for polling places and equipping them with voting booths and ballot boxes;⁴¹¹ and the purchase of voting machines (when permissive) for the several precincts.⁴¹²

Any qualified and registered elector of the county, who by reason of the nature of his business is absent or expects to be absent from the county on the day of holding an election, may vote by an absent-voter's ballot which he, by mail or in person, procures from the clerk of the circuit court.⁴¹³

When any elector presents himself to vote at an election, he is required to sign his name and address on the voters' poll list. In case of doubt concerning his identity, such signature is compared with the signature on the affidavit of registration. As soon as he has voted, a notation is made on his affidavit of registration showing he has voted at that election. If the voter cannot sign his name, it will be written for him by an election clerk, with the clerk's initials in parentheses, after the identity of the voter has been established by interrogation. If any member of the election board is not satisfied that any person who presents himself to vote is the person he represents himself to be, he may challenge the vote of such person, in which event such person must sign an affidavit as set forth in the next paragraph.⁴¹⁴

⁴⁰⁹ Acts 1897; Burns 29-401 to 29-406; Baldwin 7343 to 7348.

⁴¹⁰ Acts 1933; Burns 29-319; Baldwin 7317. Acts 1889, 1907; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091.

⁴¹¹ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

⁴¹² Acts 1939; Burns, 1940 suppl., 29-562; Baldwin, 1939 suppl., 7245-1. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

⁴¹³ Acts 1935; Burns, 1940 suppl., 26-2601 to 29-2623; Baldwin, 1935 suppl., 7348-1 to 7348-23.

⁴¹⁴ Acts 1889, 1889; Burns 29-332; Baldwin 7330.

When any person offering to vote is challenged by one of the challengers or by any member of the election board, he must stand aside and must not vote until he makes an affidavit in statutory form, and, in elections at which registration is required, produces his certificate of registration. The affidavit must state that he is a qualified and legal voter of the precinct and must set forth his name, residence, occupation, and place or places of residence during the 6 months immediately preceding the election, with the date of any removal within that time. It must also state the names of two persons who have personal knowledge of his residence in the precinct 30 days and the township 60 days immediately preceding the election. He will then be allowed to vote unless the challenger or some qualified voter of the precinct makes an affidavit that he knows, or is informed and verily believes, that the person offering to vote is not a legal voter in the precinct. If the latter affidavit is made on information and belief, it must set forth the names of the persons from whom such information was obtained. After this counter-affidavit is made, the person offering to vote cannot vote unless he presents the affidavit of another person showing that he is a legal voter of the precinct. Forms of these affidavits are set out in the statutes and printed forms containing the same are available at each voting place.⁴¹⁵

The board of canvassers (consisting of the election commissioners,⁴¹⁶ with the clerk of the circuit court acting as clerk)⁴¹⁷ tabulates and compiles the election returns, and files all data, canvass sheets, certificates, pollbooks, and tally papers in the office of the clerk, and certifies the candidates elected.⁴¹⁸ At each place of canvassing ballots cast at a general election, each of the four major political parties is entitled to have one watcher present during the canvassing.⁴¹⁹ Each political party represented at a primary election and each daily newspaper of general circulation is entitled to similar watchers at the canvassing of ballots cast at such primary election.⁴²⁰

⁴¹⁵ Acts 1933; Burns 29-1122; Baldwin 7136.

⁴¹⁶ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁴¹⁷ Acts 1905; Burns 29-1402; Baldwin 7378.

⁴¹⁸ Acts 1905; Burns 29-1404, 29-1405; Baldwin 7380, 7381.

Duty to disregard all improperly marked ballots. *Craney v. Traylor*, 214 Ind. 542, 16 N. E. (2d) 845 (1938).

⁴¹⁹ Acts 1897, 1901, 1909; Burns 29-1301; Baldwin 7147.

⁴²⁰ Acts 1915; Burns 29-527; Baldwin 7213. Acts 1931; Burns 29-528; Baldwin 7214. Acts 1939; Burns, 1940 suppl., 29-569; Baldwin, 1939 suppl., 7245-8.

Recount of ballots must be ordered by the circuit court if a petition and cost bond therefor are presented by a defeated candidate within 12 days after the election. Such recount is made by commissioners appointed by the court, and it supersedes the certificate of the county board of canvassers. Thereafter the court hears the contentions of the parties and determines the result of the election.⁴²¹

Each candidate for public office must file with the clerk of the circuit court, within 30 days after the election (general, special, or primary), a sworn statement setting forth his election expenses and promises. Failure to file such statement is a criminal offense and disqualifies the candidate from holding the office sought by him in such election.⁴²²

EDUCATION

FUNDS

The Ordinance of 1787, which created the Northwest Territory and provided for the creation of not less than three nor more than five states therefrom (of which Indiana was one), contained the following provision: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."⁴²³ The act of Congress of April 19, 1816 for the admission of Indiana Territory as a state contained the following provision: "Section numbered sixteen, in every township, and when such section has been sold, granted or disposed of, other lands, equivalent thereto, and most contiguous to the same, shall be granted to the inhabitants of such township for the use of schools." The moneys arising from the sale of such lands became known as the "Congressional Township Fund."⁴²⁴ This fund was not handled efficiently before 1851.⁴²⁵

⁴²¹ Const. 1851, art. 2, sec. 14 (as amended in 1881). Acts 1915, 1917, 1925, 1929; Burns 29-511; Baldwin 7196. Acts 1933, 1935; Burns, 1940 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7423 to 7435, 7427-1. State *ex rel.* Lord v. Sullivan, 214 Ind. 279, 15 N. E. (2d) 384 (1938); State *ex rel.* Robertson v. Lake Circuit Court, 215 Ind. 18, 17 N. E. (2d) 805 (1938).

⁴²² Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445.

⁴²³ Ordinance of 1787, art. 3; U. S. Stat., 1:52 note.

⁴²⁴ U. S. Stat., 3:289 (law of 1816).

⁴²⁵ Logan Esarey, *History of Indiana* (1924), 2:679, sec. 122.

Interest in education grew slowly before 1849. In that year the first tax law for the support of schools was passed.⁴²⁶ Previous to the imposition of this school tax, the only sources of revenue for school operation were liquor license fees, fines for breach of the penal laws, prison fees, numerous statutory penalties, leases of school lands, and interest on loans from the Congressional township fund.⁴²⁷ It was not until after the adoption of the Constitution of 1851 and the passage of the school law of 1852 that education received any effective attention from the state.⁴²⁸ The school law of 1865 brought the most complete revision.⁴²⁹ The constitution provides that the general assembly shall encourage and provide for a general and uniform system of common schools.⁴³⁰

The Constitution of 1851 established the common school fund composed of the Congressional township fund and the lands belonging thereto; the surplus revenue fund; the bank tax fund; the saline fund and the lands belonging thereto; the funds to be derived from the sale of county seminaries, and the moneys and properties previously held for such seminaries; fines and forfeitures; decedents' estates escheated to the state for want of heirs; taxes on the property of corporations which may be assessed by the general assembly for common school purposes; and all lands granted to the state without designation of purpose, and the proceeds of sale thereof (including the proceeds of sale of swamplands granted in 1850, less the expense of selection and drainage).⁴³¹ The provision concerning the sale of seminary properties and transfer of funds derived therefrom was declared void by the Supreme Court of Indiana in 1862.⁴³²

⁴²⁶ Acts 1848-49 (general), ch. 116, sec. 1. Fassett A. Cotton, *Education in Indiana* (Bluffton, Indiana, 1934), 10.

⁴²⁷ Acts 1816-17, ch. 11, sec. 12; ch. 27, sec. 1. Acts 1817-18 (general), ch. 4, sec. 3; ch. 20, sec. 2; ch. 32, sec. 9. Acts 1818-19, ch. 5, sec. 2. Rev. L. 1824, ch. 39, sec. 9. Acts 1829-30, ch. 9, sec. 4. Rev. L. 1831, ch. 54, sec. 5; ch. 86, secs. 16, 50.

⁴²⁸ Const. 1851, art. 8. 1 Rev. Stat. 1852, ch. 98.

⁴²⁹ Acts 1865; Burns 28-101; Baldwin 6499.

⁴³⁰ Const. 1851, art. 8, sec. 1.

⁴³¹ Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101; Baldwin 6499.

Fines for contempt of court go into the common school fund. *Swift v. State ex rel. Clark*, 63 Ind. 81 (1878).

Swamplands granted to state. U. S. Stat., 9:519 (law of 1850).

⁴³² *Edwards v. Jagers*, 19 Ind. 407 (1862).

The Constitution of 1851 further provided that the principal of the common school fund must remain a perpetual fund and be invested so that it might increase but never diminish; and that the interest earned by the fund might be expended for the support of the common schools and for no other purpose. The general assembly was required to invest all funds that were not already under the supervision of the counties, and was directed to provide laws for the distribution of the interest to the counties.⁴⁸⁸

The school funds managed by the county are kept by the county auditor in three separate accounts: (a) The common school fund; (b) the Congressional township fund; and (c) the permanent endowment fund of Indiana University. The latter fund was derived from a tax levy of one-half of 1 cent on each \$100 of taxable property for the years 1883 through 1895, and was distributed among the several counties according to population. Loans from these three funds are made by the county school fund board. Each county is held liable for the preservation of the funds entrusted to it, and for the payment of the annual interest. The interest on the Congressional township fund remains in the township and is distributed to the school township and the school cities and school towns therein. The basis of this distribution is the average daily attendance of school children in these school corporations. The interest on the Congressional township fund and the interest on the common school fund are treated as a combined fund for the purpose of computing the apportionment and distribution of the common school fund, which is distributed from the state treasury to the counties on the basis of average daily attendance therein. The amount received by each county from the common school fund is apportioned by the county auditor to the townships, school cities, and school towns within the county on the basis of average daily attendance. The amount of revenue received by a school corporation from the Congressional township fund is credited on the amount apportioned to such school corporation under the combined fund. The interest on the common school fund and Congressional township fund is used for the support of the common schools in the school corporations participating therein. Tippecanoe County (including Lafayette and West Lafayette) received \$15,918 for the school year 1939-40 from

⁴⁸⁸ Const. 1851, art. 8, secs. 3-5. Acts 1865; Burns 28-101; Baldwin 6499. Acts 1907; Burns 28-102; Baldwin 6500.

this source. The interest on the permanent endowment fund of Indiana University is paid to the state treasurer, and he pays it to the trustees of Indiana University.⁴³⁴

The interest on the school funds aforesaid is supplemented by other funds provided by the general assembly for the public schools. From the general fund, the state supplies the county with tuition support of not less than \$700 annually for each teaching unit of 35 pupils in average daily attendance in grades 1 to 8, and for each unit of 25 pupils in average daily attendance in grades 9 to 12. This fund is known as the "school tuition support fund."⁴³⁵ The total amount received by Tippecanoe County (including Lafayette and West Lafayette) from this source during the school year 1939-40 was \$182,720.⁴³⁶

From the moneys raised from the excise tax against dealers in alcoholic beverages, one-third is distributed to the school corporations on the basis of average daily attendance.⁴³⁷ Tippecanoe County (including Lafayette and West Lafayette) received \$9,812.18 from this source for the school year 1939-40.⁴³⁸

A state stamp tax on intangible property has further provided financial aid to the schools. The money is collected and held separate from the general fund. Of the total amount, 10 percent is kept by the state for the expense of administering that tax, and the remainder is apportioned to the counties on the basis of assessed valuation of real property in the several counties. One-fourth of the amount

⁴³⁴ Const. 1851, art. 8, secs. 2-7. Acts 1907; Burns 23-102; Baldwin 6500. Acts 1865; Burns 28-104, 28-105; Baldwin 6499-1, 6511. Acts 1865, 1873, 1897; Burns 23-1003, 28-1019; Baldwin 6485, 6496. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. Michener, 120 Ind. 442, 22 N. E. 339 (1889). *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 18, 20, 38. Information obtained from E. P. Brennan, state examiner, on February 26, 1941, by Emerson Brock. See the essay entitled "County School Fund Board."

Permanent endowment fund of Indiana University. Acts 1897; Burns 23-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. *Fisher v. Brower*, 159 Ind. 139, 64 N. E. 614 (1902).

⁴³⁵ Acts 1933, 1935, 1937; Burns, 1940 suppl., 28-1001 to 28-1003; Baldwin, 1937 suppl., 6502 to 6504.

⁴³⁶ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 18, 20, 38.

⁴³⁷ Acts 1935, 1939; Burns, 1940 suppl., 12-811; Baldwin, 1939 suppl., 3764-40f. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

⁴³⁸ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 18, 20, 38.

received by each county is retained for its general fund, and the remainder is distributed to the school taxing units in the county on the basis of assessed valuation of real property in the several units.⁴³⁹ For the school year 1939-40 Tippecanoe County and the school taxing units therein received \$17,675.54 from this source.⁴⁴⁰

In 1933 the common school relief fund was established for the purpose of aiding schools to continue in operation. The fund is derived from a 7-cent tax levy on each \$100 of taxable property, real or personal, and a poll tax of 50 cents on each taxable poll.⁴⁴¹ Whenever any township trustee or board of trustees of any school town or school city ascertains that there is an insufficient amount of revenue to maintain the school for a term not to exceed 8 months, such trustee or board must file a certificate with the county superintendent of schools stating its needs.⁴⁴² The county superintendent of schools forwards the certificate to the state board of education,⁴⁴³ and this board and the state board of accounts must examine the certificate and decide on the amount to be allotted to the school unit.⁴⁴⁴ The money received must first be used to pay any unpaid items of operating expenses which accrued before the making of such application; and any surplus must be used for the operating expenses of the current school year.⁴⁴⁵ Tippecanoe County received \$5,680.51 from this fund for the school year of 1939-40.⁴⁴⁶

The state has designated certain funds for the advancement of vocational education. Tippecanoe County (including Lafayette) received \$7,334.25 for this purpose in the school year 1939-40.⁴⁴⁷

From 1927 until 1937 any surplus in the county dog fund on the 1st Monday in March each year, after provision was

⁴³⁹ Acts 1933; Burns 64-922; Baldwin 15920.

⁴⁴⁰ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 18, 20, 38.

⁴⁴¹ Acts 1933; Burns 28-901; Baldwin 6431.

⁴⁴² Acts 1933; Burns 28-903; Baldwin 6433.

⁴⁴³ Acts 1933; Burns 28-904; Baldwin 6434.

⁴⁴⁴ Acts 1933; Burns 28-905; Baldwin 6435.

⁴⁴⁵ Acts 1933, 1935; Burns, 1940 suppl., 28-907; Baldwin, 1935 suppl., 6437. *Opinions of the*

Attorney General of Indiana, 1939, p. 197.

⁴⁴⁶ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 18, 20, 38.

⁴⁴⁷ Acts 1913, 1919; Burns 23-4902; Baldwin 6448. *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 18, 20, 38.

made for certain disbursements therefrom, was distributed for the schools of the county in the same manner the "common school revenue of such county" was distributed. A 1937 law provides that any money in the "state dog account" in excess of \$50,000 remaining after certain annual distributions therefrom must be transferred by the auditor of state to the "state school revenue fund."⁴⁴⁸

The total amount received by Tippecanoe County (including Lafayette and West Lafayette) to be used for school purposes from the above mentioned sources for the school year 1939-40 was \$239,140.48.⁴⁴⁹

The school cities, towns, and townships may levy property taxes and poll taxes⁴⁵⁰ for the following school purposes: Renting, repairing, and constructing schoolhouses; furnishings, apparatus, fuel, tuition, and other current expenses;⁴⁵¹ to enforce compulsory education and keep poor children in school;⁴⁵² to provide rooms and equipment for the teaching of agriculture, home economics, physical culture, and practical mental culture;⁴⁵³ establishment of vocational schools;⁴⁵⁴ and for the retirement of school bonds.⁴⁵⁵ Local taxation produced \$838,322 for educational purposes in Tippecanoe County (including Lafayette and West Lafayette) in 1939-40.⁴⁵⁶

ORGANIZATION

There are two major types of school organizations: (a) County schools; and (b) town and city schools. The "county schools" are, in reality, township schools and are operated by the township trustees severally. The town and city schools are operated in a similar manner by school boards composed of three members appointed by the board of town trustees or the city council, respectively.⁴⁵⁷ All

⁴⁴⁸ Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1935, ch. 271, sec. 4. Acts 1937; Burns, 1940 suppl., 16-326, 16-327; Baldwin, 1937 suppl., 3811-10, 3811-11. *Finerty v. State ex rel. School City of Gary*, 213 Ind. 470, 12 N. E. (2d) 941 (1938).

⁴⁴⁹ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 18, 20, 38.

⁴⁵⁰ Acts 1919; Burns 64-101; Baldwin 15514.

⁴⁵¹ Acts 1865, 1873, 1905, 1917; Burns 28-1101; Baldwin 6442.

⁴⁵² Acts 1921; Burns 28-513; Baldwin 6706.

⁴⁵³ Acts 1913; Burns 28-3421; Baldwin 6468.

⁴⁵⁴ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁴⁵⁵ Acts 1937; Burns, 1940 suppl., 28-3218; Baldwin, 1937 suppl., 6623-11.

⁴⁵⁶ *Report of the State Superintendent of Public Instruction, 1939-40*, pp. 18, 20, 38.

⁴⁵⁷ Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962.

public schools are under the control of the legislature. Local government units act only as legislative agencies in the operation of schools.⁴⁵⁸

The county superintendent of schools, who is elected by the township trustees, has charge of each township institute, aids the trustees in the supervision of the township schools, and carries out all orders and instructions of the state superintendent of public instruction and the state board of education. He has no supervision of city or town schools.⁴⁵⁹

The township trustees, the county superintendent of schools, and the chairman of the board of school trustees of each city and town in the county compose the county board of education. The city and town school trustees (other than the chairman of the board) may attend the meetings of the county board of education but have no vote in the proceedings. The county board of education meets semiannually to consider the general needs of the schools.⁴⁶⁰

The local school systems are closely supervised by the state board of education, with the state superintendent of public instruction as its administrative head.⁴⁶¹ One of the most important functions of the state board of education is the issuing of teachers' licenses. These are graded according to the kind and amount of training and experience of the licensee.⁴⁶² The state board of education provides for the inspection of schools,⁴⁶³ establishes a uniform schedule of textbooks,⁴⁶⁴ and prescribes an accredited course of instruction for teacher training.⁴⁶⁵

⁴⁵⁸ Anderson v. Brand, 214 Ind. 347, 5 N. E. (2d) 531, 913, 7 N. E. (2d) 777, 13 N. E. (2d) 955 (1938).

⁴⁵⁹ Acts 1899, 1911, 1913; Burns 28-702, 28-704, 28-705; Baldwin 5931, 5938, 5940. State ex rel. Nebeker v. Sutton, 99 Ind. 300 (1884); State ex rel. Drummond v. Dillon, 125 Ind. 65, 25 N. E. 136 (1890). See the essay entitled "County Superintendent of Schools."

⁴⁶⁰ Acts 1873, 1877; Burns 28-801; Baldwin 5983. Information obtained from Grover Van Duyn, assistant state superintendent of public instruction, on July 26, 1939, by W. Davis Hamilton. See the essay entitled "County Board of Education."

⁴⁶¹ Acts 1865; Burns 28-301, 28-302; Baldwin 5890, 5891. Acts 1913; Burns 28-401; Baldwin 5906. Acts 1939; Burns, 1940 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁴⁶² Acts 1865; Burns 28-404; Baldwin 5920. Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5918.

⁴⁶³ Acts 1921; Burns 28-304, 28-305; Baldwin 6048, 5939.

⁴⁶⁴ Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675.

⁴⁶⁵ Acts 1923; Burns 28-4205; Baldwin 5916.

Except as otherwise provided hereinafter, every child between the age of 7 and 16 years must attend "public school or other school taught in English language which is open to the inspection of local and state attendance and school officers"; and the child must attend "such a school each year during the entire time the public schools are in session in the school district in which such child resides." A child will be excused for 1 year on a certificate of a physician that the child is physically or mentally unfit for school attendance. Children who are deaf or blind may be sent to the Indiana State School for the Deaf or the Indiana State School for the Blind. The judge of the circuit court, when sitting as a juvenile court, may suspend the provisions of the compulsory attendance law in cases of juvenile delinquents and incorrigibles, and may make special provisions for their education, such as placing them in special private schools or in the state correctional schools (Indiana Boys School and Industrial School for Girls).⁴⁶⁶

Whenever colored children reside in any school corporation, the school trustee or trustees may establish separate schools for them. These schools must provide rights, privileges, and advantages equal to those in the other schools in the corporation. If no such school is available, colored children must attend the public schools with white children.⁴⁶⁷ Colored schools are represented on the state board of education by the required presence of one member of the negro race.⁴⁶⁸

In 1913 the general assembly first provided that school corporations might establish vocational schools or departments for industrial, agricultural, and home economics education. These courses are established in a manner approved by the state board of education, and are maintained by the regular school funds or by a special tax levy.⁴⁶⁹ Classes may be held during the day or evening. The instruction is of less than college grade, but designed to meet the needs of persons over 14 years of age.⁴⁷⁰

⁴⁶⁶ Acts 1903, 1913, 1931, 1935, 1937; Burns, 1940 suppl., 9-2801; Baldwin, 1937 suppl., 1759. Acts 1903, 1905, 1907, 1913; Burns 9-2814; Baldwin 1761. Acts 1921; Burns 28-505; Baldwin 6698. *Opinion of the Attorney General of Indiana, 1939*, p. 322.

⁴⁶⁷ Acts 1869 (Spec. Sess.), 1877, 1935; Burns, 1940 suppl., 28-5104; Baldwin, 1935 suppl., 6012.

⁴⁶⁸ Acts 1939; Burns, 1940 suppl., 28-401a; Baldwin, 1939 suppl., 5906-1.

⁴⁶⁹ Acts 1913, 1919; Burns 28-4902; Baldwin 6448.

⁴⁷⁰ Acts 1913, 1919; Burns 28-4903; Baldwin 6449.

. Township trustees may furnish free transportation of pupils to and from township schools. If such transportation is provided, free transportation must also be furnished along the regular route for pupils attending parochial schools. If a township school is discontinued without being consolidated with a town school or city school, the township trustee must assign the pupils to another school and furnish transportation for those who live more than 1½ miles from the school to which they are assigned. In case of consolidation of a township school with a town school or city school, transportation must be furnished for all pupils who live more than one-half mile outside the corporate limits of the town or city in which the consolidated school is located.⁴⁷¹

PUBLIC HEALTH

The Indiana State Board of Health closely supervises and directs all local public health activities.⁴⁷² Public health services are administered in Tippecanoe County by a part-time health officer. He is appointed by the board of commissioners, subject to approval by the state board.⁴⁷³ The state board of health is composed of several bureaus which perform many services for the local health officers. Some of these bureaus furnish laboratory services such as inspection of dairy products, analysis of water, food, and drugs, and making of bacteriological and pathological tests.⁴⁷⁴

The educational facilities offered by the state board are many. Literature, lectures, lantern slides, and motion picture films are available for use in schools and clubs or organizations desiring information on public health. These

⁴⁷¹ Acts 1917, 1921; Burns 28-1220, 28-1228; Baldwin 6197, 6206. Acts 1925; Burns 28-1231, 28-1241; Baldwin 6208, 6218. Acts 1929; Burns 28-1242, 28-1252; Baldwin 6219, 6229. Acts 1935; Burns, 1940 suppl., 28-1266, 28-1274; Baldwin, 1935 suppl., 6230-1, 6230-9. Acts 1907, 1909, 1935, 1937; Burns, 1940 suppl., 28-2803; Baldwin, 1937 suppl., 6251. Acts 1921, 1933; Burns 28-2805; Baldwin 6266. Acts 1927; Burns 28-3504; Baldwin 6079. Acts 1917; Burns 28-3801; Baldwin 6271. Acts 1937; Burns, 1940 suppl., 28-3810; Baldwin, 1937 suppl., 6266-1. *Opinions of the Attorney General of Indiana, 1939*, pp. 25, 74, 91, 366.

⁴⁷² Acts 1891, 1909; Burns 35-105, 35-106; Baldwin 8390, 8391.

⁴⁷³ Acts 1935; Burns, 1940 suppl., 35-118, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-6. See the essay entitled "County Health Officer."

⁴⁷⁴ Acts 1921; Burns 22-203; Baldwin 4141. Acts 1919; Burns 35-214; Baldwin 8428. Acts 1905; Burns 35-302; Baldwin 8394.

Test for rabies. Acts 1935; Burns, 1940 suppl., 35-711; Baldwin, 1935 suppl., 3863-1.

facilities may be obtained from the bureau of health and physical education, the bureau of communicable diseases, and the bureau of venereal diseases.⁴⁷⁵

The state board of health distributes insulin, pneumonia serum, diphtheria toxoid, smallpox virus, and typhoid bacterins to physicians for indigent patients.⁴⁷⁶

Health laws provide that public water supplies must be inspected by the state board of health;⁴⁷⁷ that manufacturing, storage, and retail establishments dealing in foodstuffs must maintain certain standards of sanitation and cleanliness;⁴⁷⁸ that dwellings which are unsanitary, unsafe, unhealthful, or rendered uninhabitable by "the existence on the premises of a nuisance likely to cause sickness" among the occupants must be properly inspected and ordered vacated;⁴⁷⁹ that health officers must ascertain the existence of rat infestations, order their extermination, and recommend methods of extermination.⁴⁸⁰

Food and drug products are inspected in the state laboratory for adulteration or misbranding.⁴⁸¹ Dairy products are tested for butterfat content and weight.⁴⁸²

Contagious diseases must be reported to the state board and properly quarantined by the health officer.⁴⁸³ All cases of tuberculosis⁴⁸⁴ and leprosy must be reported to the state board of health as soon as they are diagnosed. The state board has jurisdiction to direct the care and disposition of lepers.⁴⁸⁵

All birth certificates must show that the attendant at such birth took the proper precautions to prevent opthalmia

⁴⁷⁵ Acts 1891, 1909; Burns 35-106; Baldwin 8391. Information obtained from Dr. Verne K. Harvey, director of the state board of health, on August 17, 1939, by W. Davis Hamilton.

⁴⁷⁶ Acts 1907, 1919, 1929, 1935, 1939; Burns, 1940 suppl., 35-701 to 35-703, 35-710, 35-712; Baldwin, 1935 suppl., 13392 to 13394, 13395-1; Baldwin, 1939 suppl., 13395-2.

⁴⁷⁷ Acts 1909; Burns 35-202, 35-203; Baldwin 8411, 8412.

⁴⁷⁸ Acts 1909; Burns 35-1001, 35-1009; Baldwin 8504, 8512. Acts 1919; Burns 35-1101, 35-1103; Baldwin 8514, 8516.

⁴⁷⁹ Acts 1917; Burns 35-1801; Baldwin 8563.

⁴⁸⁰ Acts 1913; Burns 35-1601, 35-1602; Baldwin 8570, 8571.

⁴⁸¹ Acts 1905; Burns 35-302; Baldwin 8394. Acts 1907; Burns 35-1201; Baldwin 8432. Acts 1939, ch. 38.

⁴⁸² Acts 1913; Burns 35-1301; Baldwin 8455.

⁴⁸³ Acts 1903; Burns 35-401, 35-403; Baldwin 8531, 8533.

⁴⁸⁴ Acts 1917; Burns 35-601, 35-602; Baldwin 8402, 8552.

⁴⁸⁵ Acts 1917; Burns 35-501 to 35-503; Baldwin 8543 to 8545.

neqñatorum (the disease causing infant blindness).⁴⁸⁶ If an infant's eyes show any sign of infection within 2 weeks after the date of birth, a written report thereof must be made to the health officer within 6 hours after such discovery.⁴⁸⁷

All persons applying to the clerk of the circuit court for a marriage license must present a certificate from a licensed physician stating that the applicant is not infected with communicable syphilis. Before giving such certificate, the physician must have a blood specimen of the applicant examined by the laboratory of the state board of health or a laboratory approved by the board. The test must be made not more than 30 days before the application for a license. The judge of the circuit court may waive these requirements at any time in case of "emergency or other causes shown by affidavit or other proof."⁴⁸⁸

The county health officer enforces the state health laws and the regulations of the state board of health; promotes health education; collects vital statistics; makes periodic reports to the state board of health; and keeps records of these reports in his record books.⁴⁸⁹

Counties have statutory authority to construct and maintain public hospitals,⁴⁹⁰ but conditions prevailing in Tippecanoe County have not required a county hospital.

VITAL STATISTICS

In Indiana the collection of vital statistics is supervised by the bureau of vital statistics of the state board of health.⁴⁹¹ The county health officer makes the collection of local data on forms supplied by the state board of health, and periodically delivers reports of all records to the state board. The health officer collects statistics of births, deaths, marriages, and communicable diseases. Physicians, midwives, the clerk of the circuit court, and all responsible householders are required to report to the county health officer the facts needed for such statistics.⁴⁹² Physicians

⁴⁸⁶ Acts 1911; Burns 35-901; Baldwin 8558.

⁴⁸⁷ Acts 1911; Burns 35-903; Baldwin 8560.

⁴⁸⁸ Acts 1939; Burns, 1940 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁴⁸⁹ Acts 1935; Burns, 1940 suppl., 35-118, 35-122, 35-123; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-6.

⁴⁹⁰ Acts 1917, 1919, 1921, 1925, 1927; Burns 22-3215; Baldwin 4517. Acts 1903, 1939; Burns, 1940 suppl., 22-3201; Baldwin, 1939 suppl., 4507.

⁴⁹¹ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

⁴⁹² Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398.

must report certain communicable diseases direct to the state board of health.⁴⁹³

All birth reports are to be made to the health officer within 36 hours after birth. Stillbirths of 7-months gestation and over are reported as births and deaths. A child that lives and breathes after birth, no matter how brief the period, and regardless of the period of gestation, is a living child; and if he thereafter dies, his birth and death must be reported and recorded.⁴⁹⁴

Deaths are recorded as soon as possible, because a body must not be buried until a burial permit has been issued by the health officer in charge, and burial permits are not issued until the death certificate is completed. If death has occurred by means of violence or criminal practices, the death notice is referred to the coroner. Burial may be made anywhere in the state regardless of the county in which the permit is issued. When a death occurs outside the state, and the body is brought into the state for interment, the burial permit must be based on the transportation permit, and no record of the death is required.⁴⁹⁵ The burial permit is preserved with the records of the cemetery.⁴⁹⁶

Certified copies of the official records of births and deaths are furnished by the secretary of the state board of health on request of any applicant. Courts and public officials will receive these copies as proof of the facts stated therein.⁴⁹⁷

The clerk of the circuit court issues all marriage licenses, and makes a monthly report to the county health officer showing marriage statistics. The health officer records each marriage in his record book, and sends a quarterly report to the state board of health. Every marriage must be reported on an official blank, by the person performing the ceremony, within 3 days after the occurrence thereof, to the clerk of the circuit court of the county where the license was issued. The clerk keeps a record of each reported marriage, and will

⁴⁹³ Indiana State Board of Health, *Book of Instructions to Health Authorities* (1931), Rule 10, p. 13.

⁴⁹⁴ Acts 1907, 1911, 1913; Burns 35-115, 35-116, 35-901; Baldwin 8398, 8399, 8558. State board of health, *op. cit.*, Rule 4, p. 10.

⁴⁹⁵ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State board of health, *op. cit.*, Rule 3, p. 9.

⁴⁹⁶ Acts 1939; Burns, 1940 suppl., 20-1021; Baldwin, 1939 suppl., 4617-21.

⁴⁹⁷ Acts 1907, 1913; Burns 35-116; Baldwin 8399.

furnish a certified copy thereof on request of any applicant. Courts and public officials will receive these copies as proof of the facts therein stated.⁴⁹⁸

Weekly reports, on printed forms provided by the United States Public Health Service, summarizing all communicable diseases or stating the absence thereof, are made by the local health officers to the state board of health.⁴⁹⁹

The heads of all public and private institutions, such as hospitals, poor asylums, and places of confinement, are required to keep all statistics concerning the inmates and make reports directly to the state board of health as required by the board.⁵⁰⁰

WELFARE ASSISTANCE

An important public service is the administration of the Public Welfare Act by the county department of public welfare, under the supervision of the Indiana State Department of Public Welfare.⁵⁰¹

A recipient of old-age assistance must be at least 65 years old; must be a citizen of the United States; must have lived in the state for 5 years out of the last 9, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; and, within the 5 years immediately before his application, must not have transferred his property to render himself eligible for assistance.⁵⁰² He must reveal all property and income in which he has an interest,⁵⁰³ agree to reimburse the county for assistance given him, and assign as collateral security such part of his personal property as the county department of public welfare may require.⁵⁰⁴ After an investigation the county department

⁴⁹⁸ Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. Acts 1905, 1917; Burns 44-205; Baldwin 5625. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. State board of health, *op. cit.*, Rule 5, p. 11.

Injunction against illegal issuance of license. Sweigart v. State, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

⁴⁹⁹ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State board of health, *op. cit.*, Rule 6, p. 11.

⁵⁰⁰ Acts 1907, 1913; Burns 35-117; Baldwin 8400.

⁵⁰¹ See the essay entitled "County Department of Public Welfare."

⁵⁰² Acts 1936 (Spec. Sess.). 1937; Burns, 1940 suppl., 52-1201; Baldwin, 1937 suppl., 14078-32.

⁵⁰³ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1204; Baldwin, 1937 suppl., 14078-35.

⁵⁰⁴ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1213; Baldwin, 1937 suppl., 14078-44.

may grant him assistance, never exceeding \$30 a month.⁵⁰⁵ A copy of the certificate of award is filed in the office of the recorder, and constitutes a lien on any real property which the pensioner then owns or subsequently acquires.⁵⁰⁶ With the consent of the state department of public welfare, the county department may demand a transfer of all property he owns, on the sole condition that if assistance is suspended or if he dies the property will revert to him or his estate, subject to a lien for sums the state has paid to him.⁵⁰⁷

A blind person (his better eye having a disqualifying visual field defect or vision of not more than 20/200 with correcting glasses), to receive state assistance, must be 21 years old or over if a male and 18 years or over if a female; must be a citizen of the United States; must have lost his eyesight while a resident of the state or have lived in the state 5 of the last 9 years, the last year continuously; must be in need; must not be an inmate of a municipal, state, or national institution; must not have transferred his property within the 5 years immediately before his application for the purpose of rendering himself eligible for assistance; and must not solicit alms while receiving assistance.⁵⁰⁸ The amount he receives is determined by the county department after an investigation of his needs⁵⁰⁹ and never exceeds \$30 a month⁵¹⁰ except as temporary assistance is given for treatment of his eyes.⁵¹¹ Blind children may be sent to the school for the blind near Indianapolis.⁵¹²

A dependent child must have lived in the state 1 year preceding his application for assistance or have been born within the state during the year, his mother having resided in the state 1 year before his birth.⁵¹³ The first dependent child may receive \$20, the second child \$18, and each addi-

⁵⁰⁵ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1203; Baldwin, 1937 suppl., 14078-34.

⁵⁰⁶ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

⁵⁰⁷ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1214; Baldwin, 1937 suppl., 14078-45.

⁵⁰⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1201, 52-1221; Baldwin, 1937 suppl.,

14078-1, 14078-52.

⁵⁰⁹ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1225, 52-1227; Baldwin, 1937 suppl.,

14078-56, 14078-58.

⁵¹⁰ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1223; Baldwin, 1937 suppl., 14078-54.

⁵¹¹ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1236; Baldwin, 1937 suppl., 14078-67.

⁵¹² Acts 1865; Burns 22-601 *et seq.*; Baldwin 4560 *et seq.*

⁵¹³ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1240, 52-1268; Baldwin, 1937 suppl.,

14078-71, 14078-97b.

tional child \$12 a month.⁵¹⁴ A destitute child (needy but not a public ward)⁵¹⁵ may receive as much as \$23 a month,⁵¹⁶ and is eligible for any other relief he may require.⁵¹⁷ Crippled children may be placed in any public or private hospital or be sent to the Riley Hospital at Indianapolis.⁵¹⁸ Diseased and defective children may be placed in any public hospital in the county by the judge of the circuit court.⁵¹⁹ Orphan, dependent, and neglected children under 16 years of age are placed in private homes under the supervision of the county department of public welfare.⁵²⁰

No official, in carrying out the provisions of the Welfare Act, may take charge of a child over the objection of a parent or a person standing *in loco parentis* to the child, except pursuant to a court order.⁵²¹ Persons receiving aid under the Welfare Act are ineligible for other public relief.⁵²² Assistance is not transferable, is not subject to legal process, and is not an asset in bankruptcy or insolvency proceedings.⁵²³

When a recipient of welfare assistance moves to another county in the state with the approval of the state department, there is no suspension of his assistance. The county to which a blind person moves is responsible immediately for the payment of his assistance. In case of the removal of a child or aged person, the county from which he moves is responsible for 1 year and then the other county becomes responsible.⁵²⁴

⁵¹⁴ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1241; Baldwin, 1937 suppl., 14078-72.

⁵¹⁵ Acts 1937; Burns, 1940 suppl., 52-1267; Baldwin, 1937 suppl., 14078-97a.

⁵¹⁶ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1269; Baldwin, 1937 suppl., 14078 97c.

⁵¹⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1278; Baldwin, 1937 suppl., 14078-

97L.

⁵¹⁸ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1256; Baldwin, 1937 suppl., 14078-87.

⁵¹⁹ Acts 1933; Burns 52-501; Baldwin 5700.

⁵²⁰ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1104(c); Baldwin, 1937 suppl., 14078-5(c). Information obtained from Thurman A. Gottschalk, chief administrator of the state department of public welfare, on December 11, 1939, by W. Davis Hamilton.

Validity of regulations as to bringing nonresident children into the state for care by resident families. *Opinions of the Attorney General of Indiana, 1939*, p. 264.

⁵²¹ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1417; Baldwin, 1937 suppl., 14078-130.

⁵²² Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1202; 52-1222; Baldwin, 1937 suppl., 14078-33, 14078-53.

⁵²³ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1210, 52-1231; Baldwin, 1937 suppl., 14078-41, 14078-62.

⁵²⁴ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1218, 52-1239, 52-1248; Baldwin, 1937 suppl., 14078-49, 14078-70, 14078-79.

If an aged or blind person entitled to assistance under the Welfare Act is unable to care for himself, the county department pays his relief money to some responsible person for his benefit.⁵²⁵ If a blind or aged recipient of relief dies leaving an estate insufficient to bury him, and the persons legally responsible for his burial are unable to pay the expenses, the county department pays \$75 for his funeral, plus an additional \$25 for a burial lot (if the deceased did not own one).⁵²⁶

An appeal may be taken from the county department to the state department of public welfare.⁵²⁷ Nothing in the Welfare Act relieves any person from liability for the support of a parent, child, or spouse.⁵²⁸

The county maintains an asylum for the poor, which is separate from the welfare department.⁵²⁹ Pauper residents of the county may be placed therein by township trustees.⁵³⁰ Nonresident paupers may be kept there temporarily.⁵³¹ The law provides that children between the ages of 3 and 17 shall not be kept in the asylum for a period longer than 60 days.⁵³²

Township poor relief is administered by each township trustee.⁵³³ Anyone refused relief by a township trustee has

⁵²⁵ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1208, 52-1229; Baldwin, 1937 suppl., 14078-39, 14078-60.

⁵²⁶ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1209, 52-1230; Baldwin, 1937 suppl., 14078-40, 14078-61.

Burial of inmates of county infirmary. *Opinions of the Attorney General of Indiana, 1939.* p. 179.

⁵²⁷ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1211, 52-1232, 52-1246; Baldwin, 1937 suppl., 14078-42, 14078-63, 14078-77.

⁵²⁸ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

Parent's duty to support child. *Huff v. Merchants Parcel Delivery Co.*, 106 Ind. App. 110. 18 N. E. (2d) 471 (1939).

⁵²⁹ Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1940 suppl., 52-146; Baldwin, 1935 suppl., 13320-3.

⁵³⁰ 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1935; Burns, 1940 suppl., 52-146, 52-151; Baldwin, 1935 suppl., 13320-3, 13320-8.

⁵³¹ Acts 1935; Burns, 1940 suppl., 52-163; Baldwin, 1935 suppl., 13320-20.

⁵³² Acts 1897, 1901; Burns 22-2608; Baldwin 4388.

⁵³³ Acts 1935, 1939; Burns, 1940 suppl., 52-144 to 52-182a; Baldwin, 1935 suppl., 13320-1 to 13320-38, 13359-11, 13359-12; Baldwin, 1939 suppl., 13320-4, 13320-13. Acts 1937; Burns, 1940 suppl., 52-183 to 52-194; Baldwin, 1937 suppl., 13321-1 to 13321-11, 13320-39.

a right to a hearing before the board of commissioners⁵³⁴ and to an appeal from that board to the circuit court.⁵³⁵ The board of commissioners may borrow for township poor relief, if the funds available are not sufficient. The township funds are used for paying these loans.⁵³⁶

PUBLIC WORKS AND PROPERTY

The board of commissioners has power to make orders respecting the property of the county in conformity to law; to sell the public grounds of the county on which public buildings are situated, and to purchase in lieu thereof, in the name of the county, other grounds in the county seat on which such buildings shall be erected; to purchase other lands for the enlargement of the public square, and to take care of and preserve such property; and to grant licenses, permits, or franchises with respect to the use of the property of the county.⁵³⁷ No sale, conveyance, or purchase, by the board, of real estate of the value of \$1,000 or more can take place except pursuant to ordinance of the county council authorizing such sale or purchase and fixing the terms and conditions thereof.⁵³⁸ The board cannot sell county property, real or personal, except at public auction after 60 days' notice by publication and posting.⁵³⁹

ROADS AND BRIDGES

The board of commissioners has power to construct and maintain roads⁵⁴⁰ and bridges.⁵⁴¹ Generally the preliminary

⁵³⁴ Acts 1935; Burns, 1940 suppl., 52-160; Baldwin, 1935 suppl., 13320-17.

⁵³⁵ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5276.

⁵³⁶ Acts 1935, 1939; Burns, 1940 suppl., 52-604, 52-609, 52-610; Baldwin, 1935 suppl., 13359-1. 13359-6; Baldwin, 1939 suppl., 13359-7.

⁵³⁷ 1 Rev. Stat. 1852, Acts 1935; Burns, 1940 suppl., 26-620; Baldwin, 1935 suppl., 5236.

⁵³⁸ Acts 1899; Burns 26-534; Baldwin 5399.

⁵³⁹ Acts 1907; Burns 26-2003; Baldwin 5107.

⁵⁴⁰ Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1923; Burns 36-1001; Baldwin 9020. Acts 1905; Burns 36-1301 *et seq.*; Baldwin 8787 *et seq.* Acts 1921; Burns 36-1401 *et seq.*; Baldwin 8904 *et seq.*

Budget estimates. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1928).

⁵⁴¹ Acts 1905, 1907, 1929; Burns 36-1901; Baldwin 9236. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903, 1923; Burns 36-2002; Baldwin 9192. Acts 1920; Burns 36-2401 *et seq.*; Baldwin 9151 *et seq.*

procedure for such construction is as follows: Taxpayers file with the board of commissioners a petition requesting the improvement; notice of hearing before the board is published; taxpayers opposing the petition file remonstrances; viewers appointed by the board make inspection and recommendations; damages to landowners are determined; the petition is finally approved or rejected; if approved, a contract for the work is let; and the damages are paid.⁵⁴² In some instances, bonds may be issued for the construction of roads⁵⁴³ and bridges,⁵⁴⁴ and special assessment liens charged against the land benefited by the road.⁵⁴⁵

State highways are those roads which have been officially designated as state highways by the state highway commission with the approval of the governor. State highways and the bridges thereon are constructed, reconstructed, and maintained with state and Federal funds under the supervision of the state highway commission. Roads not so designated as state highways, and those so designated and thereafter abandoned by the state, are known as county roads. County roads and the bridges thereon are constructed, reconstructed, and maintained with county funds.⁵⁴⁶ The county may render financial

⁵⁴² See the citations in the two preceding footnotes.

⁵⁴³ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1435 to 36-1443; Baldwin 8938 to 8946. Acts 1937; Burns, 1940 suppl., 36-332; Baldwin, 1937 suppl., 8859-1.

⁵⁴⁴ Acts 1920 (Spec. Sess.); Burns 36-2402; Baldwin 9152. Acts 1927; Burns 36-2421; Baldwin 9171. Acts 1929, 1937; Burns, 1940 suppl., 36-2432; Baldwin, 1937 suppl., 9182. Acts 1927; Burns 36-2441; Baldwin 9128.

⁵⁴⁵ Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁵⁴⁶ Acts 1917, ch. 87, secs. 5, 6, 9, 12, 27, 31. Acts 1919, ch. 53, secs. 12, 16, 23, 31. Acts 1933, 1935; Burns, 1940 suppl., 36-107, 36-117, 36-127; Baldwin, 1935 suppl., 8647, 8656, 8665. Acts 1933; Burns 36-110, 36-125, 36-1102; Baldwin 8649, 8663, 8700. Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1940 suppl., 36-2804, 36-2806; Baldwin, 1937 suppl., 8695-4, 8695-6; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1939 suppl., 36-2912, 36-2913, 36-2920, 36-2921; Baldwin, 1937 suppl., 8696-11, 8696-12, 8696-19, 8696-20. Acts 1939; Burns, 1940 suppl., 36-3013; Baldwin, 1939 suppl., 9175-13.

Township roads transferred to county road system. Acts 1932 (Spec. Sess.), 1933; Burns 36-901 to 36-904; Baldwin 8711 to 8714.

Law transferring township roads to county road system authorized the county to pay previous obligations of townships on such roads, but did not require such payment. Board of County Comrs. v. Farmers State Bank of Eaton, 104 Ind. App. 692, 10 N. E. (2d) 769 (1937).

Private road becoming a public road after public use for 20 years. Acts 1905; Burns 36-1807; Baldwin 8770. Switzer v. Armantrout, 106 Ind. App. 468, 19 N. E. (2d) 853 (1939).

assistance to the state highway commission in the construction or maintenance of any state highway or bridge located wholly within the county, and any bridge (on such highway) over a stream forming the county boundary.⁵⁴⁷

Expenses incurred in the maintenance of county roads may be paid only from funds received by the county from the motor vehicle highway account of the state, except that taxes may be levied for such purpose by the unanimous vote of the county council in case of extraordinary emergency or indispensable necessity.⁵⁴⁸

The county surveyor ordinarily prepares the plans and specifications for the construction of county roads and bridges, and has general supervision of such construction. If he is not a competent civil engineer, the board may appoint one to perform such duties.⁵⁴⁹

The county highway supervisor has general supervision of the maintenance and repair of all county roads, bridges, and culverts.⁵⁵⁰ He makes maps of all county roads, and gives each road a name or number, so that the roads may be efficiently patrolled for making repairs.⁵⁵¹ Between January 1 and April 1 each year the highway supervisor is required to examine hedge fences and other obstructions of view near county roads, and to cause the trimming or removal of any such obstructions which violate the laws.⁵⁵² Weeds must be cut and removed from the rights-of-way of county roads each year between June 15 and September 1.⁵⁵³

The board of commissioners has power to make suitable rules and regulations covering traffic on county roads, and to take steps necessary to enforce the rules. If such road is on a county line, the board of commissioners of the respective counties, in joint session, may make and enforce the rules.⁵⁵⁴ The county surveyor or county highway supervisor

⁵⁴⁷ Acts 1923, 1929; Burns 36-136 to 36-141; Baldwin 8672 to 8675, 8678, 8679.

⁵⁴⁸ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715. Acts 1937, 1939; Burns, 1940 suppl., 36-2804; Baldwin, 1939 suppl., 8695-4. Acts 1937; Burns, 1940 suppl., 36-2806; Baldwin, 1937 suppl., 8695-6.

⁵⁴⁹ 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁵⁵⁰ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

⁵⁵¹ Acts 1933; Burns 36-1109; Baldwin 8707.

⁵⁵² Acts 1891, 1921, 1933; Burns 30-301, 30-302; Baldwin 7647, 7648.

⁵⁵³ Acts 1939; Burns, 1940 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

⁵⁵⁴ Acts 1919; Burns 36-706; Baldwin 8899. Information obtained from T. A. Dicus, chairman of the state highway commission, on December 29, 1939, by W. Davis Hamilton.

may fix the limits of the loads for any road, bridge, or culvert maintained by the county.⁵⁵⁵

PUBLIC BUILDINGS

The law provides that the board of commissioners must cause a courthouse, jail, and public offices for the clerk, recorder, treasurer, and auditor to be erected and furnished, where this has not been done; and must keep all the public buildings of the county in repair; and that such offices must be fireproof, if practicable.⁵⁵⁶

For the purpose of acquiring a new courthouse, the board, without appraisement and without authority from the county council, may sell to the state any lands of the county containing public buildings, and buy other land for courthouse grounds. The proceeds of sale can be used only for the purchase of the land and construction of the courthouse. Additional funds for such purpose may be raised by issuing bonds or notes.⁵⁵⁷

If the courthouse or jail is wholly or partly destroyed by fire or windstorm, it may be reconstructed or repaired by the board; bonds may be issued therefor; and a tax may be levied to retire the bonds.⁵⁵⁸

County buildings, not needed by the courts or for county business, may be leased to the city or town in which such buildings are located for a term not exceeding 10 years in any one lease,⁵⁵⁹ or to private persons or corporations for a term not exceeding 5 years.⁵⁶⁰

The board may construct and maintain public halls, and provide a custodian, janitor, lights, and heat therefor; and may join with a city for such purpose, or sell such halls to a city or town.⁵⁶¹ The board may erect soldiers' monuments,⁵⁶² memorial buildings, auditoriums, and coliseums.⁵⁶³ A township schoolhouse may be used for certain public

⁵⁵⁵ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708. Information obtained from T. A.

Dicus, chairman of the state highway commission, on December 29, 1939, by W. Davis Hamilton.

⁵⁵⁶ 1 Rev. Stat. 1852; Burns 26-624; Baldwin 5240.

⁵⁵⁷ Acts 1917, 1920 (Spec. Sess.); Burns 26-2201 to 26-2210; Baldwin 5165 to 5174.

⁵⁵⁸ Acts 1935; Burns, 1940 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

⁵⁵⁹ Acts 1909; Burns 26-1801 to 26-1804; Baldwin 5151 to 5154.

⁵⁶⁰ Acts 1919; Burns 26-1805 to 26-1810; Baldwin 5155 to 5160.

⁵⁶¹ Acts 1903, 1913; Burns 26-1901 to 26-1906; Baldwin 5146 to 5150, 5164.

⁵⁶² Acts 1865, 1891; Burns 26-1701; Baldwin 5298.

⁵⁶³ Acts 1913; Burns 26-1707; Baldwin 5132.

meetings, with the consent of the township trustee.⁵⁶⁴ A school house no longer used as such, because of the abandonment of the school or its consolidation with another school, may be reconstructed for use as a community house, on application of 51 percent of the resident freeholders of the school district.⁵⁶⁵

Contracts for construction of public buildings may be let by the board of commissioners in pursuance of appropriation by the county council,⁵⁶⁶ after plans and specifications adopted by the board have remained in the auditor's office 30 days open to public inspection, notice inviting bids has been published, and bids, affidavits, and bonds have been received from bidders.⁵⁶⁷

DRAINAGE

Drainage districts and special assessment liens on the land in the benefited area, to pay for the drainage, may be established by the circuit court on petition of landowners, after being referred to the county surveyor and viewers appointed by the court.⁵⁶⁸ The petition will be dismissed if owners of two-thirds of the affected land remonstrate within 20 days.⁵⁶⁹ If the original assessment is insufficient to complete the work, an additional assessment may be ordered after report of the surveyor, notice to the landowners, and hearing by the court.⁵⁷⁰ After assessments are adjusted and confirmed, they are placed on the ditch duplicate and collected in the manner in which taxes are collected.⁵⁷¹

⁵⁶⁴ Acts 1859; Burns 28-3307; Baldwin 6094. Acts 1913; Burns 28-3308 to 28-3311; Baldwin 6095 to 6098. *Opinions of the Attorney General of Indiana, 1939*, p. 172.

⁵⁶⁵ Acts 1939; Burns, 1940 suppl., 28-3320; Baldwin, 1939 suppl., 6195-1.

⁵⁶⁶ Acts 1899; Burns 26-525; Baldwin 5389.

⁵⁶⁷ Acts 1899; Burns 26-357; Baldwin 5402. Acts 1907; Burns 26-2001 to 26-2005; Baldwin 5100 to 5104.

⁵⁶⁸ Acts 1933; Burns 27-104, 27-109, 27-116, 27-134; Baldwin 5740, 5745, 5752, 5770. *Penn v. Ducomb*, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

⁵⁶⁹ Acts 1933; Burns 27-108; Baldwin 5744.

⁵⁷⁰ Acts 1933; Burns 27-122; Baldwin 5758.

⁵⁷¹ Acts 1933; Burns 27-134; Baldwin 5770.

The circuit court has no power to collect these assessments as part of the proceedings for establishment of the drainage district. *Penn v. Ducomb*, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

Proceedings to collect drainage assessment liens cannot be commenced 5 years after creation of lien. *Marshall v. Watkins*, 106 Ind. App. 235, 18 N. E. (2d) 954 (1939).

Effect of moratorium tax law. *Ibid.*

The county surveyor has general supervision of the construction and maintenance of all ditches, drains, and levees. He makes all necessary surveys, maps, plans, and specifications when a court grants petitions for construction.⁵⁷² The law requires that open ditches be cleaned out and repaired biennially, and that weeds, willows, and debris be removed therefrom annually, and that public tile drains be repaired whenever necessary.⁵⁷³

The board of commissioners may (by purchase, grants, donations, or eminent domain) acquire lands and rights necessary to obtain a right-of-way for drainage or easement for sewers, when necessary for the proper maintenance of any county buildings or institution.⁵⁷⁴

OTHER PUBLIC PROPERTY

The board of commissioners may, without petition, purchase or otherwise acquire lands within the county for park purposes and make the necessary improvements thereon.⁵⁷⁵ If 200 persons, who are taxpayers and voters, petition the board to acquire land for park purposes, the board gives 60-days' notice by publication and conducts a public hearing on the question. If 20 percent of the resident taxpayers file remonstrances on or before the day fixed for hearing, the petition will be dismissed.⁵⁷⁶ The board may acquire land to convey to the state for park purposes, on petition of 200 persons who are taxpayers and voters, after (a) publication of 30-days' notice, (b) public hearing, (c) consent of the governor and the director of the state department of conservation, (d) fixing a tax levy, and (e) issuing bonds (if needed). The petition will be dismissed if 25 percent of the resident taxpayers file remonstrances before the date fixed for hearing.⁵⁷⁷

The board of commissioners may acquire, by purchase or gift, any lands within the county for the purpose of a permanent

⁵⁷² Acts 1933; Burns 27-101, 27-201; Baldwin 5737, 5775. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁵⁷³ Acts 1933, 1935; Burns, 1940 suppl., 27-203, 27-210; Baldwin, 1935 suppl., 5777, 5784. Acts 1939; Burns, 1940 suppl., 27-233; Baldwin, 1939 suppl., 5794-9. *Opinions of the Attorney General of Indiana*. 1939, p. 292.

⁵⁷⁴ Acts 1937; Burns, 1940 suppl., 26-640; Baldwin, 1937 suppl., 5236-1.

⁵⁷⁵ Acts 1923, 1927; Burns 26-1501; Baldwin 5199.

⁵⁷⁶ Acts 1923; Burns 26-1503, 26-1504; Baldwin 5201, 5202.

⁵⁷⁷ Acts 1927; Burns 26-1512 to 26-1516; Baldwin 5190 to 5194.

public forest.⁵⁷⁸ Purchase for such purpose may be made on petition signed by 50 or more freeholders of the county, after publication of notice, a public hearing, and fixing a tax levy to pay for the same. Money may be raised by bond issue or temporary loan.⁵⁷⁹ A gift of lands to the county on condition that they may be maintained as a public forest can be accepted only by a majority of the board of commissioners and county council in joint session.⁵⁸⁰ Any aggrieved taxpayer may appeal to the circuit court.⁵⁸¹

Swamplands, saline lands, and meander lands, owned by the state, may be purchased by the county (acting through the board of commissioners) to be used for a public park or public forest, or both, on petition to the circuit court, appraisal of lands, and payment of value.⁵⁸²

The board may permit county lands within $1\frac{1}{2}$ miles of a city or town to be used by such city or town for park purposes. Title to the land remains in the county.⁵⁸³

The board, on petition of a majority of the voters in the county, may purchase land to be used for fairgrounds,⁵⁸⁴ and thereafter sell such land or any part thereof, if it is no longer an eligible location for fairs.⁵⁸⁵

The county may, separately or in conjunction with another county or city, acquire, maintain, and dispose of airports and appurtenances thereto.⁵⁸⁶

Lands conveyed to the board of commissioners for the purpose of a public or private cemetery must be held by the board forever in trust for such purpose,⁵⁸⁷ subject to the exceptions hereinafter stated. The board may convey any such public cemetery to any city or town within the vicinity thereof on application of such city or town,⁵⁸⁸ and may convey any such public or private cemetery to a cemetery association on petition of a majority of the persons, being

⁵⁷⁸ Acts 1929; Burns 32-101; Baldwin 4875.

⁵⁷⁹ Acts 1929, 1935; Burns, 1940 suppl., 32-102; Baldwin, 1935 suppl., 4876.

⁵⁸⁰ Acts 1929; Burns 32-105; Baldwin 4879.

⁵⁸¹ Acts 1929, 1935; Burns, 1940 suppl., 32-109; Baldwin, 1935 suppl., 488-1.

⁵⁸² Acts 1929; Burns 62-217 to 62-225; Baldwin 15260 to 15268.

⁵⁸³ Acts 1911; Burns 26-1526 to 26-1531; Baldwin 5181 to 5186.

⁵⁸⁴ Acts 1873; Burns 26-1517, 26-1518; Baldwin 5330, 5331.

⁵⁸⁵ Acts 1873; Burns 26-1519; Baldwin 5332.

⁵⁸⁶ Acts 1920 (Spec. Sess.), 1921; Burns 14-301 to 14-306; Baldwin 4021, 7991, 4023 to 4026.

⁵⁸⁷ 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10600.

⁵⁸⁸ Acts 1905; Burns 48-6003; Baldwin 12665.

residents of the county and heads of families, whose dead are buried in the cemetery.⁵⁸⁹

AGRICULTURE AND HOME ECONOMICS

The constitution provides that improvement of agriculture shall be encouraged.⁵⁹⁰ Allowances may be made out of the county's general fund to agricultural societies for the promotion of agricultural and horticultural interests.⁵⁹¹

Tippecanoe County has a county agricultural agent and a home demonstration agent, for the improvement of agriculture, home economics, and rural life. The agricultural agent, under the supervision of Purdue University, cooperates with farmers institutes, farmers clubs, and other rural and civic organizations; conducts practical farm demonstrations, boys clubs and contest work, and other movements for the advancement of agricultural and country life; gives advice to farmers on practical farm problems; and aids the superintendents of schools and the teachers of the county in giving practical education in agriculture and domestic science. The home demonstration agent, working in close cooperation with the agricultural agent, directs all home economic extension work, both adult and junior, including girls 4-H Clubs, and cooperates with the county schools.⁵⁹²

RECORDS SYSTEM

The records of Tippecanoe County began with its creation in 1826. The establishment of each of the county offices and bureaus inaugurated their records which were kept in such fashion as the incumbents saw fit, following in the main the directions of the general assembly under the provisions for each office.

In 1909 the legislature established the state board of accounts, which formulates, prescribes, and installs systems of accounting and financial reporting which are uniform for

⁵⁸⁹ Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627.

⁵⁹⁰ Const. 1851, art. 8, sec. 1.

⁵⁹¹ Acts 1877; Burns 15-314; Baldwin 5333.

⁵⁹² U. S. C., title 7, secs. 341 to 343, 344 to 348 (law of 1914). Acts 1913, 1923, 1927, 1937; Burns, 1940 suppl., 28-4911; Baldwin, 1937 suppl., 6457. Acts 1931; Burns 28-5627; Baldwin 6475. See the essays entitled "County Agricultural Agent" and "Home Demonstration Agent."

every public office of the same class.⁵⁹³ Under this law some of the records were combined to eliminate separation, duplication, and overlapping. The board also permits the use of bound loose-leaf records in almost all cases where the records are typed. The quality of the paper and ink and the binding and rebinding practices are left to the judgment of the board of commissioners, except that a good quality is required.⁵⁹⁴

An act of 1937 provides that the board of commissioners may provide for the installation of a modern tax-accounting system in the offices of the treasurer and auditor, after a description thereof has been approved by the board of commissioners and certified to, and approved by, the state board of accounts.⁵⁹⁵ No system has been established in Tippecanoe County under authority of this law.⁵⁹⁶

Whenever it may be necessary for the preservation of the records of the circuit court or any county office, it is the duty of the board of commissioners to order the officer in charge of such records to copy and transcribe the same.⁵⁹⁷

In the event of the loss or destruction, in whole or in part, of any of the county records, they must be replaced as follows: (a) The board of commissioners must send to the governor a certified list of such records furnished by the state, and he must order the proper state officer to replace them. (b) Records compiled in the county must be restored, if possible, from original documents by the county officer who had custody of the original records. (c) If impossible to duplicate the old records, new records must be made on evidence taken from parties having knowledge of the facts concerned, by the proper officer or by a commissioner appointed by the board of commissioners for that purpose.⁵⁹⁸

In 1925 a law was passed permitting county officials, at their discretion, to turn over to the archives division

⁵⁹³ Acts 1909; Burns 60-202, 60-224; Baldwin 13855, 13875.

⁵⁹⁴ Information obtained from E. P. Brennan, state examiner, on February 28, 1940, by W. Davis Hamilton.

⁵⁹⁵ Acts 1937; Burns, 1940 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁵⁹⁶ Information obtained from E. P. Brennan, state examiner, on January 21, 1940, by William E. Chambers.

⁵⁹⁷ Acts 1877; Burns 26-634; Baldwin 5339.

⁵⁹⁸ 2 Rev. Stat. 1852, Acts 1865; Burns 57-101 to 57-124; Baldwin 1168 to 1191. Acts 1881; Burns 57-208 to 57-210; Baldwin 1165 to 1167. Acts 1893; Burns 57-125, 57-211 to 57-214; Baldwin 1197, 1192 to 1195.

of the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books and material not in current use in their offices.⁵⁹⁹ County officials have only occasionally availed themselves of this provision for permanent preservation of their old records.

An act of 1927 provided that deeds, mortgages, and other instruments may be recorded by a photographic process adopted by the board of commissioners.⁶⁰⁰ The photographic method of recording has never been used generally by any Tippecanoe County officer.

In 1937 the general assembly authorized the director of the state library, at his discretion, to make a copy, by photography or in any other way, of any official book, record, document, original paper, newspaper, or printed book or material in any county, city, or other public office, for preservation in the state archives. All public officials must permit such copies to be made.⁶⁰¹

In 1939 the legislature created in each county a commission of public records, consisting of the judge of the circuit court, the president of the board of commissioners, the county auditor, and the clerk of the circuit court. The commission must classify county records on the following basis: (a) Public records no longer of official or historical value; (b) public records which are of current official value and should be retained in the office where they are required to be filed; (c) public records of official value but which are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed; and (d) public records having historical value but no apparent official value. Records of class (a), which occupy space to no purpose in the offices and storerooms of the county, must, 3 years from the time they were originally filed (unless a law requires that they be kept for a longer period of time), be destroyed or otherwise disposed of, unless a law prohibits their destruction and unless such records are then in frequent use by the officer having charge of the office in which they are located. Records of class (b) will be retained in the office in which they were required to be filed. Records of classes (c) and (d) must be transferred

⁵⁹⁹ Acts 1925, 1937; Burns, 1940 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶⁰⁰ Acts 1927; Burns 49-3207; Baldwin 14667.

⁶⁰¹ Acts 1925, 1937; Burns, 1940 suppl., 63-830; Baldwin, 1937 suppl., 10287.

to the state library 3 years after the date of the filing of such records, unless they are then in frequent use by the officer in charge of the office where they are located. In the event of such transfer, the records of class (c) will be added to the "archives" of the library while those of class (d) will constitute a part of the "collection" of such library.⁶⁰²

An act of 1935 created, in the executive department of the state, a "commission on public records," consisting of the governor, secretary of state, state examiner, director of the state library, and director of the historical bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except as to the provisions as to the personnel of the commission.⁶⁰³

3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The first public building constructed in Tippecanoe County of which there is any record was a jail, authorized by the board of justices' meeting in Lafayette, May 7, 1827. It was to be a "two-story structure of 12" square timbers, two walls to a side 12" apart, 16' in the clear, and filled in with square oak timber 8' high between floors. The floors are to be double laid with 12" square timber, and the roof of shingles. A single wall of the building to be completed by November 1, 1827, and the remaining part of the jail by May 1, 1828."¹

Pursuant to the order, the county agent was authorized to contract with the lowest bidder for the construction of the jail. Thomas Treacle, submitting the lowest bid, was awarded the contract on his bid of \$260, and construction was begun on the jail.² On November 3, 1828 the board of justices ordered the "County Agent to award to the lowest bidder—contract for Sealing the upper story of the County jail, said work to be done with oak plank 1½" thick, spiked with iron spikes, 3" long, 6" apart." The same day action

⁶⁰² Acts 1939; Burns, 1940 suppl., 49-3701 to 49-3710; Baldwin, 1939 suppl., 5492-1 to 5492-

10. See the essay entitled "Commission of Public Records."

⁶⁰³ Acts 1935; Burns, 1940 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10. *Opinions of the Attorney General of Indiana, 1939*, p. 259.

¹ Board of Justice Record, vol. A. p. 17, *see* entry 3.

² *Ibid.*, p. 17.

was taken on the construction of the first courthouse, and the board authorized the agent to offer at public auction to the lowest bidder, a contract for the structure. The building was to be constructed of "brick, two-stories high, 12' in the clear below, and 10' above, the wall below to be 18" thick, and the upper, 13". The foundation to be of stone 3' high, one foot to be below the ground, and 2' above to be faced." An additional contract for the limestone and other materials for the construction was also awarded the lowest bidder.³

During the same winter, at a meeting on January 5, 1829, the board of justices authorized the agent to offer at auction to the lowest bidder, a contract for building the foundation of the courthouse "40' square, 3' high of stone, also for 500 bushels of lime for the finishing of the courthouse. The work to be completed by July 1829."⁴ The following day the board authorized the agent to contract for brick necessary to build the courthouse, "the same to be ready at the kiln by July 6 next, and to contract for the hauling of the brick."⁵

It was not until the March session of 1829 that the board instructed the agent to have the courthouse constructed as near the center of the square as possible, and to award the contract to Elijah Ferguson. Some differences must have arisen at this time for the plans were altered considerably as indicated in specifications: "The walls of the lower floor are to be 13" thick and 12' high in the clear. The cupola and roof are to be framed substantially to the top of the walls. Three doors, 4' x 7½' with circular transient [transom], opening into the lower story are to be located on the north, west, and south sides, and 2 windows on each side where there are doors with 3 on the remaining side." On the second floor there were to be three windows on each side of the building. Two rooms with a door to each were to be located in the northwest and southwest corners, separated with brick walls, and a stairs erected up the side of the building on the southwest corner. Four fireplaces of brick, one in each corner, were to be built on the first floor, and three on the second floor, one in each corner except the southwest.⁶

On January 4, 1830, after a disagreement between the board and Elijah Ferguson over the number of bricks used

³ *Ibid.*, vol. B, p. 57.

⁴ *Ibid.*, p. 71.

⁵ *Ibid.*, p. 73.

⁶ *Ibid.*, p. 92.

and the class of work being done on the courthouse, the agent was ordered to relieve him and his sureties of their duties and bond,⁷ and to appoint three men to count the bricks, which was done and found to number 178,281.⁸

The board then authorized the agent to employ some person to construct a stairway with banister from the first to the second story to be built of oak plank, and for someone to build a judge's seat with a clerk's box attached in the east end of the courthouse. It was further ordered that someone be employed to construct a partition on the second floor of poplar boards 1½" thick, planed, tongued, and grooved, and to paint the venetian blinds a lead color. The agent was also requested to have a partition constructed for a clerk's office in the northwest corner of the lower story from the north door to the center column, thence west to the west wall.⁹

With the increase in county business, the board at its March session 1835 authorized the agent to contract with competent workmen for the construction of offices for the clerk and recorder, with a library situated in the latter. The clerk's office was to be a "one-story structure of brick with stone foundation 18 x 24 x 10, with a chimney and door in the south end. One 24 pane window on the west, and two 24 pane windows on the east. The floor to be of brick, and the walls plastered. The specifications used for the recorder's office and library to be the same as the clerk's."¹⁰ It was also ordered that the "agent employ some suitable person to paint the courthouse a venetian red and pencil the same in style most suitable, and construct lightning rods on the same."¹¹

Apparently the courthouse was not completed by 1837, for at a meeting on May 4 of that year, the board ordered the agent to employ a suitable person to finish that part of the courthouse "not under contract," making the whole of the front of the first floor in one room, placing the criminal box in the center, raising the sheriff's seat a sufficient height, and repairing the roof.¹² By 1842, many important records had accumulated, and for the protection of these the

⁷ *Ibid.*, p. 180.

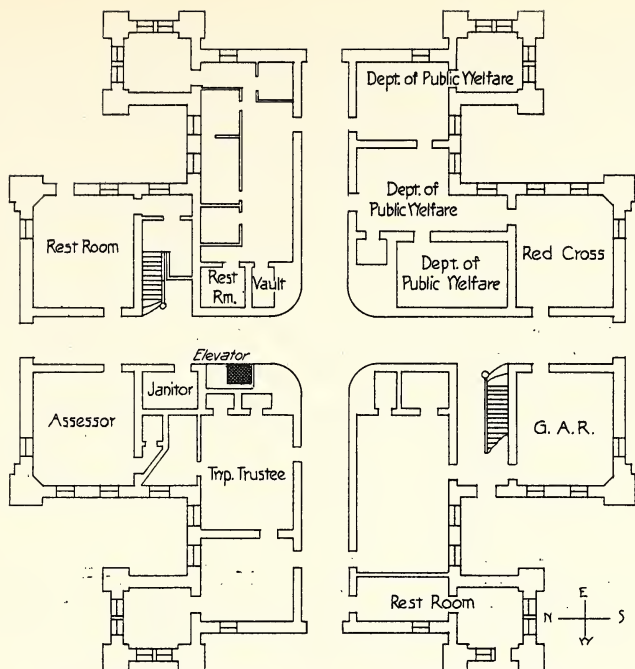
⁸ *Ibid.*, p. 194.

⁹ *Ibid.*, p. 316.

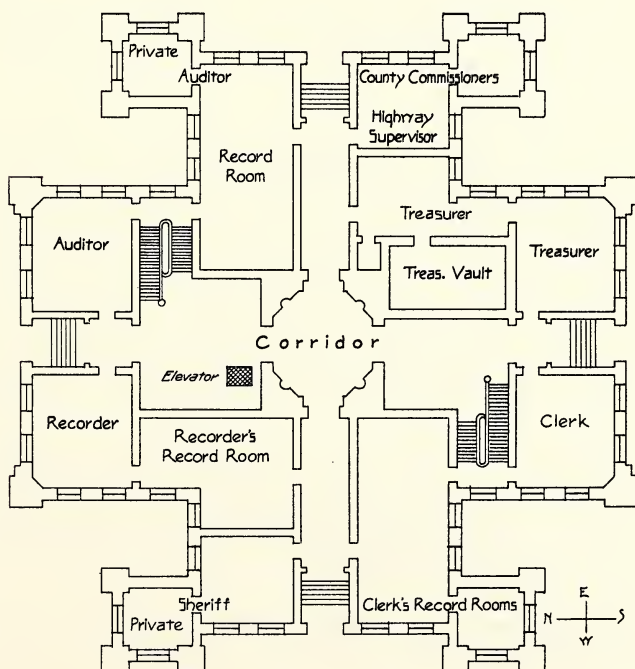
¹⁰ Commissioners' Record, vol. C. p. 371, *see* entry 3.

¹¹ *Ibid.*, p. 394.

¹² *Ibid.*, p. 608.



BASEMENT, TIPPECANOE COUNTY COURTHOUSE



FIRST FLOOR, TIPPECANOE COUNTY COURTHOUSE

board authorized the agent to contract with some person for the construction of a fireproof vault in the recorder's office. The vault was to be built of brick, the door jambs of cast iron, and the door of wrought iron.¹³

The population and business of Tippecanoe County grew rapidly and on July 11, 1843, the board authorized the agent to enter into a contract with George Brown of Ohio, who was the lowest bidder, on a bid of \$11,400 for the construction of a courthouse and jail to be erected according to the specifications in the hands of the agent.¹⁴ No records are available showing the specifications or type of materials used, except that the courthouse was a "colonial structure." However, this building was used until the present courthouse, a four-story stone structure 150' square, was completed on February 3, 1885, after some delay in awarding a new contract and altering plans.

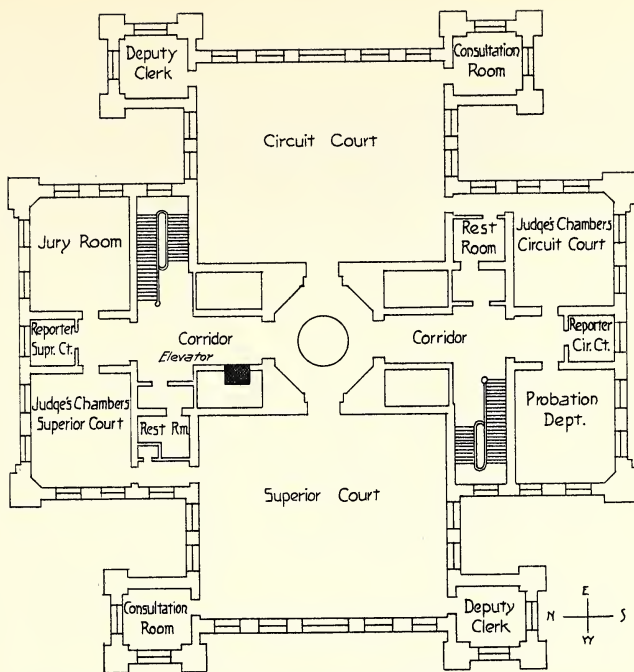
Four years earlier--on June 3, 1881--the firm of Farnam and Pearce had been awarded the contract for construction of the present building at a cost of \$207,999. Elias Max, architect, was the superintendent of construction. During the first year of construction, in which the first floor was nearly completed, Mr. Farnam of the construction firm died, and his partner requested that he be relieved of the contract, offering to reimburse \$10,000 of the money received. The commissioners at first refused, but later decided to cancel the contract.

A new contract was awarded September 15, 1882 to Mr. Pearce of the original firm, and \$241,000 was allotted for completion of the courthouse. James Alexander was appointed superintendent of construction, and October 6, 1882, the corner stone was laid by the Masonic Lodge. One year later the plans were declared defective and alterations totaling \$27,206.35 were made. Four months later additional alterations, costing \$48,264, were approved, increasing the total cost to approximately \$339,264, excluding the plumbing and heating.

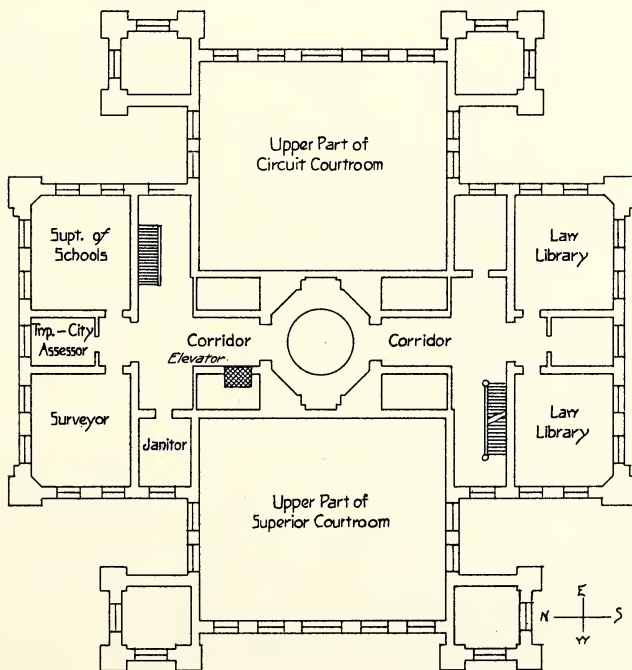
The walls of the various offices of the present courthouse have been plastered and painted, and the floors are wood or tile. Ventilation, lighting, and accommodations for users of records are adequate.

¹³ *Ibid.*, vol. D, p. 261.

¹⁴ *Ibid.*, p. 349.



SECOND FLOOR, TIPPECANOE COUNTY COURTHOUSE



THIRD FLOOR, TIPPECANOE COUNTY COURTHOUSE

The building is the form of a large cross with corridors running from a center circular well to each of the four sides of the structure. A clock tower surmounts the center of the roof, and a statue of Justice rises 92' above the ground level.

From 1923 to 1940 the offices of the civil city of Lafayette were housed in the courthouse basement, but upon their removal this space was assigned to various county officials for storage room and office space.

The present county jail and sheriff's residence is located at the corner of Fourth and Alabama Streets, Lafayette. This building was ordered built by the board of commissioners at a meeting on August 4, 1868. Richard Epperson and James Colegrove received the award for construction on their bid of \$75,000, prepared according to specifications of Edwin May, architect. The structure is 126' square and 37' high, it is constructed of brick and St. Paul stone with a roof of Vermont slate. One year after construction of the building, the board allowed Richard Epperson \$1,322.25 for extra work and materials used in construction, and on February 7, 1870 the sum of \$6,228.86 was allowed for additional alterations, making the total cost of the present jail approximately \$82,500.

A room-by-room description of the present housing of county records follows:

Board of Commissioners. Seventy percent of the records are in the attic storage room, 26 percent in the auditor's record room, and 4 percent in the auditor's office.

County Council. All records are in the auditor's office.

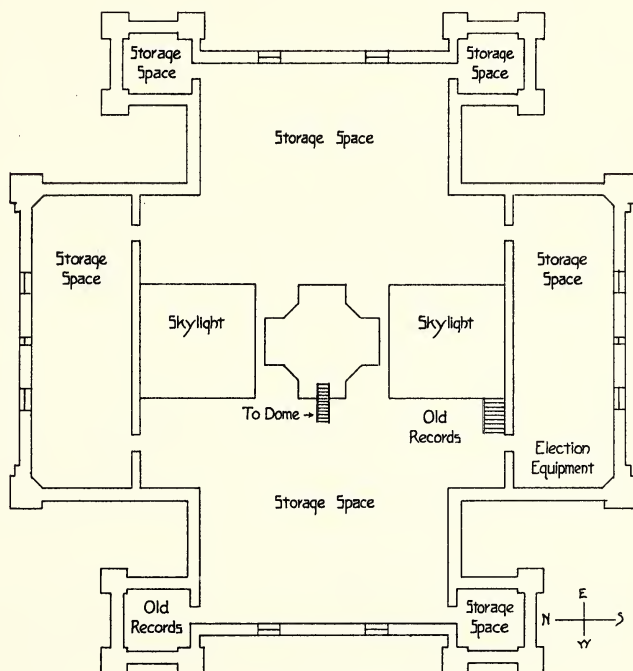
Clerk of the Circuit Court. The clerk's record room 60' by 30' is located in the southwest section of the first floor. Two thousand feet of roller shelving and file cabinets contain 1800' of bound volumes and 90' of unbound records which is 90 percent of the records. Adjoining the clerk's record room on the southeast is the clerk's office 24' by 24' housing 6 percent of the records. Four percent are in the storage room.

Recorder. Situated in the northwest section of the first floor is the recorder's record room, 30' by 40', containing 2,000' of metal and wood roller shelving. Eighteen hundred feet of bound volumes, comprising 74 percent of the records, are located here with room for expansion. To the north is the recorder's office, 50' by 30' with 26 percent of the records.

Circuit Court. Ninety-four percent of the records are in the clerk's record room, 4 percent in the clerk's office, and 2 percent in the private office of the superior judge.

Superior Court. Two percent of the records are in the superior court room, 2 percent in the clerk's office, 4 percent in the attic storage room, and 92 percent in the clerk's record room.

Criminal Court. All records in the clerk's record room.



ATTIC, TIPPECANOE COUNTY COURTHOUSE

Court of Conciliation. No records of court of conciliation found.

Common Pleas Court, 1853-72. All records in clerk's record room.

Probate Court. No records of probate court found.

Common Pleas Court, 1842-52. All records in clerk's record room.

Probation Officer. One file drawer in probation officer's office.

Sheriff. The sheriff's office, 30' by 24' is located in the northwest section of the first floor. Wood roller shelving and file boxes along the east wall contain 30' of bound

volumes and 20' of unbound records, which represents approximately 97 percent of the records. Two percent are in the clerk's record room, and 1 percent in sheriff's private office.

Prosecuting Attorney. All records in the prosecutor's office, Schultz Building, Lafayette, Ind.

County Assessor. The assessor's office measuring 27' by 23', is located in the northwest section of the basement. File boxes 12" by 14" by 20" along the west wall and south end of counters contain 82 percent of the records. Twelve percent are in the auditor's office, and 6 percent in the janitor's room.

County Board of Review. All records in the auditor's record room.

County Board of Tax Adjustment. One file drawer in auditor's office.

Board of Finance. One volume in auditor's office.

Treasurer. Located in the southwest section of the first floor is the treasurer's vault, 30' by 20', containing 96 percent of the records. Wood shelving and file boxes 18" by 22" house 360' of bound and 42' of unbound records. Three percent are in the treasurer's office and 1 percent in the attic storage room.

Auditor. The auditor's record room, 60' by 25', is located in the northeast section of the first floor. Six hundred feet of bound volumes and 25' of unbound records, which is 34 percent of the records, are housed on 800' of metal and wood roller shelving. Three percent in auditor's office, and 63 percent in attic storage room.

Registration Officer. Ninety-nine percent of the records in the clerk's room, and 1 percent in recorder's record room.

Board of Primary Election Commissioners, County Board of Canvassers, County Board of Election Commissioners. Fifty percent of records in clerk's record room, 25 percent in clerk's office, and 25 percent in attic storage room.

County Board of Education. All records in office of the superintendent of schools.

County Superintendent. All records in superintendent's office.

County Health Officer. Forty-seven percent of the records in sheriff's office, 37 percent in sheriff's private office, 13 percent in health officer's office, and 3 percent in auditor's office.

County Department of Public Welfare. Situated in the southeast section of the basement are 4 rooms housing the welfare department. Eighty-four percent of the records are in the

vault, 10 percent in supervisor's private office and 6 percent in main office.

Surveyor. Located in the northwest section of the third floor. All records, maps, and blueprints are in surveyor's office, 30' by 28'.

County Highway Supervisor. The highway supervisor's office, 16' by 16', is located in the southeast section of the first floor. Wood shelving contains 80 percent of the records, 20 percent are in the attic storage room.

Inspector of Weights and Measures. All records in the inspector's office.

County Agricultural Agent. All records in agent's office.

Home Demonstration Agent. Records in agricultural agent's office.

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5. ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

The Style Manual of the United States Government Printing Office is the authority followed herein.

Acts	Session laws of the Indiana General Assembly
agr. agt.	agricultural agent ('s)
alph.	alphabetical(ly)
amend.	amendment(s)
approx.	approximate(ly)
arr.	arranged
art.	article
assr.	assessor('s)
aud.	auditor('s)
bd.	board
bdl.	(s)bundle(s)
bk.	book
Blackf.	<i>Blackford Reports</i> (Supreme Court of Indiana)
bldg.	building
bsmt.	basement
c.	copyright (before date)
C. C.	County Courthouse
cf.	compare
ch.(s)	chapter(s)
chron.	chronological(ly)
cir. ct.	circuit court
clk.	clerk('s)
comp.(s)	compiler(s)
comr.	commissioner(s')
Const.	Constitution of Indiana
cor.	coroner
ct. rept.	court reporter
diam.	diameter
ed.(s)	editor(s)
<i>et al.</i>	<i>et alii</i> —and others
<i>et seq.</i>	<i>et sequentia</i> —and following

<i>ex rel.</i>	<i>ex relatione</i> —upon relation of. (Designates the person at whose instance the state or a public officer is acting)
f. b.	file box(es)
f. d.	file drawer(s)
fl.	floor
hdw.	handwritten
hlth. offr.	health officer('s)
hwy. sup.	highway supervisor('s)
<i>ibid.</i>	<i>ibidem</i> (same reference as that immediately foregoing)
Ind.	Indiana: <i>Indiana Reports</i> (when preceded by the volume number, reference is to the official state supreme court reports)
Ind. App.	Official reports of decisions of Indiana Appellate Court
insp.	inspector
juv.	juvenile
L.	Law(s)
L. Ed.	decisions of U. S. Supreme Court published by Lawyers Co-operative Publishing Co.
lb.(s)	pound(s)
<i>loc. cit.</i>	<i>loco citato</i> —in the place cited
N.	north
n.	note
n. d.	no date
N. E.	<i>North Eastern Reporter</i>
N. E.(2d)	<i>North Eastern Reporter</i> , second series
no., nos.	number(s)
num.	numerically
off.	office
offr.	officer
<i>op. cit.</i>	<i>opere citato</i> —in the work cited. (After author's name, refers to previous work cited under his name)
p., pp.	page(s)
<i>passim</i>	here and there (referring to references too numerous to enumerate)
<i>pro tem</i>	<i>pro tempore</i>
prob. comr.	probate commissioner
pros. atty.	prosecuting attorney('s)
pt.	part
ptd.	printed
pub. welf.	public welfare
pvt.	private
rec.	record

recr.	recorder('s)
reg.	register
Rev. L.	<i>Revised Laws of the State of Indiana</i>
Rev. Stat.	<i>Revised Statutes of the State of Indiana</i>
rm.	room
S.	south
sec.(s)	section(s)
sher.	sheriff('s)
sic	thus (indicating expression, misspelling, etc., is the same as in the original)
(Spec. Sess.)	Special Session
sta.	station
stat.	statutes
stor.	storage
sub-bsmt.	sub-basement
suppl.	supplement
Sup. Ct.	Supreme Court
super. ct.	superior court
supt.	superintendent('s)
surv.	surveyor('s)
treas.	treasurer('s)
twp.(s)	township(s)
U. S.	United States
U. S. C.	<i>United States Code</i>
U. S. Stat.	U. S. Statutes at Large
v.	versus
vol.(s)	volume(s)
vt.	vault
x	by, in dimensions
—	Yr. Bk. <i>Year Book of the State of Indiana</i>
"	to date and continuing
"	inch(es) (omitted after dimensions in entries)
'	foot, feet

EXPLANATORY NOTES

The inventory of the records of each branch of the county government is preceded by an essay explaining its legal status and functions.

In some instances, records shown as being legally required do not appear in the inventory. Such omissions reflect the record situation and are not the result of an inadequate survey.

Entries are grouped according to a functional classification, with headings and subheadings according to relative functions and with cross-references to allied subjects. Every

entry has two parts or paragraphs: Title and description. Occasionally an entry has a third (cross-reference) paragraph.

I. The title paragraph consists of:

Entry number. The entries are numbered consecutively.

Exact title (in capitals and small capitals) as it appears on the record. Titles enclosed in brackets are supplied by the Indiana Historical Records Survey, if the volume or file bears no title. Supplementary titles (in capitals and lower-case letters), enclosed in brackets, are also supplied where it is necessary to explain the types of records more fully, or where the exact title borne by the record is incorrect, misleading, or nondescriptive.

Dates of the period covered by the record, show inclusive beginning and ending dates, except when a dash in place of an ending date denotes an open record. Missing records are indicated by a break in the dates. In entries, where one or more records are replaced by another record, the month and day are given for the discontinued record. In entries of open records, when the last entry is not current, a note follows: "Last entry"—with date following. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior or subsequent records, no definite information could be obtained.

Quantity and labeling, given in chronological order wherever possible.

Variations in title. Current or most recent title used as entry title; if former titles vary, they are shown.

Changes in keeping records. Occasionally the county record is discontinued or is kept by some other authority—state or other county office; if changes in keeping records have been made, such changes are indicated and information is given to show by what authority the record is now kept.

II. The description consists of:

A statement of the nature, contents, and purpose of the record, with a summary of the column headings or subjects treated. The current record, except as otherwise noted, is described. The contents over a long period of years may themselves vary; therefore, over the entire period the description may vary to some degree. In the description of map and plat records, the scale and the names of author and publisher are given whenever available. No mention thereof denotes that these data are not known.

Method of arrangement: Chronological, topical, or other system.

Method of indexing, pertaining to self-contained indexes.

Separate indexes are noted also, with a cross-reference thereto.

Nature of recording: Records are shown as handwritten, typewritten, or printed; maps and plats are shown as drawn, blueprinted, or printed.

Condition. Omitted if good or excellent.

Number of pages averaged for a series.

Size of volumes in the order of height, width, and thickness, averaged for a series; of file boxes and file drawers, in the order of height, width, and depth. It is given in inches in all instances; hence the inch sign is omitted.

Location. The place of custody (the room in which the records are located) is in the courthouse unless another building is specified in the entry. The locations given are those effective at the time the survey was made.

III. Cross-references:

Title-line cross-references are used to show continuity of a record series which has been kept separately for a period and with other records for different periods of time. An example is that in the title-line of entry 23: "1926— in Cash Book of Receipts and Disbursements, entry 22." They are also used in all artificial entries, those set up to cover records which must be shown separately under their proper office even though they are kept in files, or records appearing elsewhere in the inventory, as, for example, the title-line cross-reference in entry 385: "[Record of Absent Voters' Ballots, Primary], entry 388." In both instances the description of the master entry or entry of miscellaneous contents shows the title number of the entry in which the record is described (the entry from which the title-line cross-reference is made), as, for example, in entry 388: "Also contains: [Record of Absent Voters' Ballots, Primary], entry 385." Dates shown in such a cross-reference are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

Separate third-paragraph cross-references from entry to entry, and *See also* references with subject headings or sub-headings are used to guide the reader to prior, subsequent, or related records which are not parts of the same series.

In the footnotes of essays the chapter and section numbers of the *Laws of the State of Indiana* (cited as Acts) are omitted when parallel Burns and Baldwin section numbers are cited; only the year of the law cited is given, as, for example, "Acts 1919; Burns 36-706; Baldwin 8899." The history line for both Burns and Baldwin sections give the full citations. This method has been found necessary to prevent the footnotes from becoming unwieldy and occupying too much space on each page of the multigraphed volume.

PART B. COUNTY OFFICES AND THEIR RECORDS

I. BOARD OF COMMISSIONERS

LEGAL STATUS

The board of commissioners, which has existed in Tippecanoe County ever since 1829 (a board of justices having existed from 1826 until 1829), is composed of three members¹ elected for 3-year terms commencing on January 1 in different years.² The county is divided into three districts; and one commissioner is elected from the residents of each district by the voters of the whole county.³ Each member receives a certificate of election from the clerk of the circuit court⁴ and remains in office until his successor has been elected and qualified.⁵

Each commissioner must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁶ must reside within the county after his election; must not hold any other lucrative office;⁷ and must take an oath to support the State and Federal Constitutions and faithfully discharge his duties.⁸ Each

¹ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215. See footnote 16 herein.

County commissioners are not constitutional officers. State *ex rel.* Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909).

² Rev. L. 1824, ch. 16, secs. 1, 2. Acts 1828-29, ch. 16, secs. 1, 2. Rev. L. 1831, ch. 20, sec. 2. Rev. Stat. 1838, ch. 21, sec. 2. Rev. Stat. 1843, ch. 4, sec. 11. Acts 1901, ch. 182, sec. 1 (repealed by Acts 1929, ch. 59, sec. 2). 1 Rev. Stat. 1852; Burns 26-603; Baldwin 5217. Acts 1885; Burns 26 604; Baldwin 5218. Acts 1929; Burns 49-207; Baldwin 5566.

³ Rev. L. 1831, ch. 20, sec. 11. Rev. Stat. 1838, ch. 21, sec. 11. Rev. Stat. 1843, ch. 7, sec. 13. 1 Rev. Stat. 1852; Burns 26-602; Baldwin 5216.

⁴ Const. 1851, art. 15, sec. 6. Rev. L. 1824, ch. 16, sec. 3. Rev. Stat. 1843, ch. 7, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 38. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

The members are not commissioned by the governor. *Ibid.*

⁵ Const. 1851, art. 15, sec. 3. Rev. Laws 1824, ch. 16, sec. 1. Acts 1828-29, ch. 16, sec. 1. Rev. Laws 1831, ch. 20, sec. 2. Rev. Stat. 1838, ch. 21, sec. 2. Rev. Stat. 1843, ch. 4, sec. 11. 1 Rev. Stat. 1852, ch. 20, sec. 3. Acts 1885; Burns 26-604; Baldwin 5218.

⁶ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁷ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁸ Const. 1851, art. 15, sec. 4. Rev. L. 1824, ch. 16, sec. 3; ch. 23, sec. 15. Rev. L. 1831,

member receives a regular salary of \$620 per year,⁹ plus 6 cents for each mile necessarily traveled by him in the conduct of county business.¹⁰

For sufficient legal causes any county commissioner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹¹ If a commissioner is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of county commissioner is filled at any time through appointment by the commissioners in office. In the event of a tie vote the auditor casts the deciding vote.¹³

The board of commissioners is a body corporate and politic by the name and style of "The Board of Commissioners of the County of Tippecanoe." As such, and in such name, the board may sue and be sued. It possesses duties, rights, and powers incident to corporations.¹⁴ In legal contemplation the board is the county.¹⁵

From the organization of Tippecanoe County in 1826 until September 1829, county business was transacted by a board of justices composed of all the justices of the peace in the county. Ever since September, 1829 the general administrative control of county matters has been vested in a board of commissioners similar to the present board, except that since

ch. 20, sec. 3. Rev. Stat. 1838, ch. 21, sec. 3. Rev. Stat. 1843, ch. 7, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 26-605, 49-101; Baldwin 5219, 13054.

⁹ Acts 1889, ch. 88, sec. 1. Acts 1899, ch. 241, sec. 1. Acts 1911, ch. 84, sec. 1. Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1933; Burns 49-1013; Baldwin 7543.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ 1 Rev. Stat. 1852, Acts 1929; Burns 26-601; Baldwin 5215. *Opinions of the Attorney General of Indiana, 1935*, p. 7.

¹⁴ Rev. L. 1824, ch. 15, sec. 1; ch. 16, sec. 4. Rev. L. 1831, ch. 20, sec. 4. Rev. Stat. 1838, ch. 21, sec. 4. Rev. Stat. 1843, ch. 7, sec. 3. 1 Rev. Stat. 1852; Burns 26-606; Baldwin 5220.

Suit against canal company. Acts 1851-52; Burns 36-2302 to 36-2304; Baldwin 9254 to 9256.

Suits concerning county seat donations. 1 Rev. Stat. 1852; Burns 26-801; Baldwin 5251.

¹⁵ *Dice v. County Board of Finance*, 99 Ind. App. 405, 192 N. E. 770 (1934).

1899 many powers previously exercised by the board of commissioners have been vested in the county council.¹⁶

FUNCTIONS AND RECORDS

The board of commissioners may purchase and sell property for the county (consent of county council is required when value is \$1,000 or more);¹⁷ has control of the county property; may grant licenses, permits, and franchises with respect to county property;¹⁸ has charge of the purchase of materials and supplies needed by the county officials;¹⁹ has charge of the construction and maintenance of roads,²⁰ bridges,

¹⁶ Rev. L. 1824, ch. 15. Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act). Rev. L. 1831, ch. 20. Rev. Stat. 1838, ch. 21. Rev. Stat. 1843, ch. 7, secs. 1-43. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 17, 18, 21, 22. Acts 1899; Burns 26-501 to 26-551; Baldwin 5365 to 5414. 1 Rev. Stat. 1852; Burns 26-601 to 26-639; Baldwin 5215 *et seq.* Snider v. State *ex rel.* Leap, 206 Ind. 474, 190 N. E. 178 (1934). See the essay entitled "County Council."

¹⁷ Acts 1838-39 (general), ch. 32. Rev. Stat. 1843, ch. 19, secs. 34, 42. Acts 1851-52, ch. 2, sec. 2. Acts 1855, ch. 12, sec. 1. Acts 1872 (Spec. Sess.), ch. 10, sec. 4. Acts 1897, 1907; Burns 22-2602; Baldwin 4383. Acts 1881, 1885 (Spec. Sess.), 1891; Burns 22-2603; Baldwin 4397. Acts 1903, 1939; Burns, 1940 suppl., 22-3201; Baldwin, 1939 suppl., 4507. Acts 1913, 1917, 1927; Burns 22-3301; Baldwin 4478. Acts 1899; Burns 26-534; Baldwin 5399. 1 Rev. Stat. 1852. Acts 1935; Burns, 1940 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1937; Burns, 1940 suppl., 26-640; Baldwin. 1937 suppl., 5236-1, Acts 1927; Burns 26-1515, 26-1516; Baldwin 5193, 5194. Acts 1873; Burns 26-1517; Baldwin 5330. Acts 1905; Burns 26-1524; Baldwin 5179. Acts 1915; Burns 26-1532, 26-1533; Baldwin 5187, 5188. Acts 1903; Burns 26-1901; Baldwin 5146. Acts 1913; Burns 26-1906; Baldwin 5164. Acts 1907; Burns 26-2008; Baldwin 5107. Acts 1917; Burns 26-2201; Baldwin 5165. Acts 1899; Burns 28-250 to 28-257; Baldwin 6602 to 6609. 1 Rev. Stat. 1852. Acts 1913; Burns 52-201, 52-215; Baldwin 13360, 13364.

¹⁸ Rev. Laws 1831, ch. 90, sec. 30. Rev. Stat. 1843, ch. 7, sec. 14; ch. 19, sec. 42. 1 Rev. Stat. 1852, Acts 1935; Burns, 1940 suppl., 26-620; Baldwin, 1935 suppl., 5236.

Insurance. Potts v. Bennett, 140 Ind. 71, 39 N. E. 518 (1895); Barnhill v. Woodard, 26 Ind. App. 482, 59 N. E. 1085 (1901).

¹⁹ Rev. L. 1831, ch. 15, sec. 14. Rev. Stat. 1838, ch. 17, sec. 14. Acts 1841-42 (general), ch. 115, sec. 3. Rev. Stat. 1843, ch. 59, sec. 16, (14). 1 Rev. Stat. 1852, ch. 37, sec. 11. Acts 1865 (Spec. Sess.), ch. 99. Acts 1875, ch. 17. Acts 1877, ch. 47, sec. 5. Acts 1889, ch. 85, sec. 9; ch. 155, sec. 5. Acts 1891, ch. 80, sec. 1. Acts 1899, ch. 110, sec. 13. Acts 1927, ch. 8, sec. 7. Acts 1899; Burns 26-535; Baldwin 5400. Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401. Acts 1917; Burns 26-2209; Baldwin 5173. Acts 1899; Burns 28-707; Baldwin 5946. Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630. 1 Rev. Stat. 1852; Burns 35-1908; Baldwin 9475. Acts 1875 (Spec. Sess.), 1919; Burns 49-1435, 49-3206; Baldwin 13130, 5487. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. Acts 1899, 1913; Burns 52-209; Baldwin 13372.

²⁰ Rev. L. 1824, ch. 87, secs. 1, 3-7, 9, 12, 15, 24, 25, 29. Rev. L. 1831, chs. 20, 22, 82. Rev. Stat. 1838, ch. 21, sec. 22; ch. 91. Acts 1838-39 (general), ch. 29. Acts 1839-40 (general),

culverts;²¹ waterways,²² and county buildings and other structures;²³ has the power of eminent domain;²⁴ provides office rooms for county officers;²⁵ prepares annual budget

ch. 4. Acts 1841-42 (general), ch. 159. Rev. Stat. 1843, ch. 16. Acts 1846-47 (general), chs. 31, 96. Acts 1848-49 (general), ch. 58, sec. 4. 1 Rev. Stat. 1852, ch. 48. Acts 1855, ch. 57. Acts 1858 (Spec. Sess.), ch. 9. Acts 1861, ch. 63. Acts 1865, chs. 8, 18, 39. Acts 1867, chs. 61, 63, 65. Acts 1875, ch. 50. Acts 1877, ch. 47. Acts 1881, ch. 8. Acts 1883, chs. 31, 99, 128. Acts 1885, ch. 45. Acts 1889, chs. 85, 137, 154, 192, 234. Acts 1893, chs. 88, 112, 163. Acts 1897, ch. 127. Acts 1901, chs. 51, 202, 205. Acts 1905, chs. 87, 100, 160, 164, 167. Acts 1909, chs. 29, 101, 148. Acts 1913, chs. 6, 74. Acts 1915, chs. 60, 159, 176, 186. Acts 1919, chs. 44, 92, 93, 112. Acts 1927, chs. 32, 239. Acts 1929, chs. 30, 32, 124, 136. Acts 1931, chs. 41, 122, 134. Acts 1933, chs. 9, 10, 27, 39, 89, 181. Acts 1935, chs. 56, 94, 145, 238. Acts 1939, ch. 64, sec. 1; ch. 140.

²¹ Acts 1818-19, ch. 12, secs. 1, 3, 4, 6. Rev. Laws 1831, ch. 82, secs. 62, 66, 69. Rev. Stat. 1838, ch. 91, secs. 57-64. Rev. Stat. 1843, ch. 16, secs. 58-74. 1 Rev. Stat. 1852, ch. 16, secs. 4-6. Acts 1857, ch. 11. Acts 1861, chs. 12, 42. Acts 1869 (Spec. Sess.), ch. 8. Acts 1873, ch. 8, sec. 16. Acts 1881, ch. 3, sec. 1. Acts 1885, chs. 31, 45. Acts 1889, chs. 43, 129. Acts 1895, ch. 96. Acts 1905, ch. 167, secs. 39, 45. Acts 1907, chs. 212, 217. Acts 1913, chs. 74, 207; ch. 329, sec. 15; ch. 330. Acts 1919, chs. 93, 112. Acts 1921, ch. 280. Acts 1923, ch. 190. Acts 1929, ch. 114, secs. 1, 2; ch. 124. Acts 1932 (Spec. Sess.), ch. 32. Acts 1933, ch. 27, sec. 3.

²² Acts 1813, ch. 2, secs. 1, 3. Acts 1827-28, ch. 77, sec. 13. Acts 1832-33, ch. 58, sec. 2. 1 Rev. Stat. 1852, ch. 73. Acts 1861, ch. 46, secs. 11, 12. Acts 1873, chs. 15, 106. Acts 1875, ch. 64. Acts 1881 (Spec. Sess.), ch. 44. Acts 1883, ch. 132. Acts 1891, ch. 18. Acts 1893, ch. 148, sec. 1. Acts 1905, ch. 167, secs. 24-26, 29, 30. Acts 1915, ch. 94.

²³ Rev. L. 1824, ch. 17, sec. 59; ch. 39, sec. 11. Rev. L. 1831, ch. 15, sec. 13; ch. 20, secs. 24, 27; ch. 69, sec. 28; ch. 90, sec. 16. Rev. Stat. 1838, ch. 20, sec. 24; ch. 79, sec. 31. Rev. Stat. 1843, ch. 7, secs. 20, 21; ch. 19, secs. 34, 37; ch. 57, sec. 1. 1 Rev. Stat. 1852, ch. 20, secs. 16, 17; ch. 58, sec. 1; ch. 81, sec. 25. Acts 1855, ch. 12. Acts 1865 (Spec. Sess.), ch. 94, sec. 2. Acts 1869, ch. 6. Acts 1875, ch. 17, sec. 4; ch. 23. Acts 1877, ch. 18, sec. 2. Acts 1883, ch. 132, sec. 5. Acts 1889, ch. 18, sec. 1. Acts 1891, ch. 196, sec. 10. Acts 1893, ch. 148, sec. 2. Acts 1895, ch. 105, secs. 13-16. Acts 1899, ch. 76, sec. 5; ch. 110, secs. 1, 3; ch. 154, secs. 36, 37. Acts 1905, ch. 167, secs. 41, 74. Acts 1907, ch. 271, secs. 1, 3, 4, 9. Acts 1911, ch. 173. Acts 1913, ch. 172. Acts 1915, ch. 163. Acts 1917, ch. 156, secs. 4-8. Acts 1919, ch. 55, secs. 2-5. Acts 1927, ch. 59, sec. 1. Acts 1933, ch. 258.

²⁴ Acts 1937; Burns, 1940 suppl., 26-640; Baldwin, 1937 suppl., 5236-1. Acts 1899; Burns 26-2101 to 26-2106; Baldwin 5109 to 5114. Acts 1919; Burns 36-303; Baldwin 8861. Acts 1935; Burns, 1940 suppl., 36-711; Baldwin, 1935 suppl., 8861-1. Acts 1921; Burns 59-416; Baldwin 10783.

²⁵ Acts 1829-30, ch. 10, sec. 1. Rev. L. 1831, ch. 15, sec. 13. Rev. Stat. 1838, ch. 17, sec. 13. Rev. Stat. 1843, ch. 7, sec. 21. 1 Rev. Stat. 1852, ch. 37, sec. 11. Acts 1865 (Spec. Sess.), ch. 99. Acts 1913, ch. 330, sec. 1 (repealed by Acts 1933, ch. 19, sec. 1). Acts 1927, ch. 8, sec. 7. Acts 1937; Burns, 1940 suppl., 2-4726; no Baldwin. Acts 1899; Burns 26-507; Baldwin 5371. 1 Rev. Stat. 1852; Burns, 26-624; Baldwin 5240. Acts 1899; Burns 26-625; Baldwin 5241. 1 Rev. Stat. 1852; Burns 49-3202; Baldwin 5470.

estimates;²⁶ may authorize tax refunds;²⁷ allows claims against the county;²⁸ issues bonds and short-term notes (after authorization by the county council);²⁹ and may levy taxes for library purposes³⁰ and to retire certain road bonds.³¹

The board may establish or abolish townships and election precincts, and change the boundary lines thereof;³² provides rooms, booths, chutes, and ballot boxes for elections, and

²⁶ Acts 1899; Burns 26-516, 26-519; Baldwin 5380, 5383.

Estimates for road maintenance are under control of the board and may be changed without the approval of the surveyor or county highway supervisor. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

²⁷ Rev. L. 1824, ch. 86, sec. 15. Rev. L. 1831, ch. 81, sec. 29. Acts 1853, ch. 110. Acts 1919, 1927, 1929; Burns 64-2819 to 64-2821; Baldwin 15881, 15882, 15885.

²⁸ Rev. L. 1824, ch. 23, sec. 10. Acts 1828-29, ch. 94, sec. 1. Rev. L. 1831, ch. 20, secs. 7, 17; ch. 102, sec. 7. Rev. Stat. 1838, ch. 21, sec. 39. Rev. Stat. 1843, ch. 7, secs. 23, 26, 28, 29; ch. 19, sec. 31. 1 Rev. Stat. 1852, Acts 1935; Burns, 1940 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1879 (Spec. Sess.); Burns 26-807; Baldwin 5256.

Claims under public welfare law. Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

²⁹ 1 Rev. Stat. 1852, ch. 20, secs. 17-23. Acts 1867, ch. 9, secs. 1, 2. Acts 1869, ch. 6. Acts 1873, ch. 14. Acts 1875, ch. 22. Acts 1881, ch. 8. Acts 1883, ch. 31. Acts 1899, ch. 24; ch. 109, sec. 3; ch. 127, sec. 1; ch. 189, secs. 1, 2; ch. 206, sec. 7; chs. 243, 252. Acts 1913, ch. 154; ch. 165, sec. 23; ch. 172, sec. 3; chs. 205, 226; ch. 275, sec. 5; ch. 357, sec. 12. Acts 1921, ch. 72; ch. 87, sec. 1; ch. 153; ch. 203, sec. 1; ch. 219; ch. 245, secs. 4, 17; ch. 262, sec. 35. Acts 1932 (Spec. Sess.), ch. 15, secs. 1, 2; ch. 59. Acts 1933, ch. 75, 130, 176; ch. 203, sec. 1; ch. 224; ch. 264, secs. 36, 37. Acts 1935, ch. 117, secs. 2, 3; ch. 155, sec. 1. Acts 1936 (Spec. Sess.), ch. 3, secs. 102, 104, 109. Acts 1937, ch. 126.

³⁰ Acts 1917, 1921, 1927, 1939; Burns, 1940 suppl., 41-510; Baldwin, 1939 suppl., 10321. *Opinions of the Attorney General of Indiana, 1937*, p. 136.

³¹ Acts 1891, ch. 88, sec. 2. Acts 1897, ch. 81, sec. 1. Acts 1899, ch. 109, sec. 4. Acts 1901, ch. 205, sec. 7. Acts 1911, ch. 30, secs. 6, 8. Acts 1913, ch. 226, sec. 1. Acts 1915, ch. 159, sec. 3. Acts 1917, ch. 87, sec. 28. Acts 1919, ch. 53, sec. 36; ch. 167, sec. 3. Acts 1919; Burns 36-321; Baldwin 8874. Acts 1909; Burns 36-813; Baldwin 9121. Acts 1905, 1913; Burns 36-1220; Baldwin 8819. Acts 1921; Burns 36-1439; Baldwin 8942.

³² Townships. Rev. L. 1824, ch. 36, sec. 4. Rev. L. 1831, ch. 33, sec. 4. Rev. Stat. 1838, ch. 34, sec. 5. Rev. Stat. 1843, ch. 2, art. 2, sec. 1. 1 Rev. Stat. 1852, ch. 110, sec. 1. Acts 1855, ch. 86, sec. 151. Acts 1861, ch. 41, sec. 157. Acts 1859, 1939; Burns, 1940 suppl., 26-701; Baldwin, 1939 suppl., 16055. Acts 1919, 1939; Burns, 1940 suppl., 26-705; Baldwin, 1939 suppl., 16059.

Election precincts. Acts 1816-17, ch. 14, sec. 3. Acts 1833-34, ch. 48. Rev. Stat. 1838, ch. 32, sec. 33. Acts 1840-41 (general), ch. 14. 1 Rev. Stat. 1843, ch. 5, sec. 18. 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1877 (Spec. Sess.), ch. 15, secs. 1, 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 8, 9, 11. Acts 1907, ch. 282, sec. 10. Acts 1911, ch. 150, sec. 2. Acts 1913, ch. 185, secs. 2, 25. Acts 1915, ch. 126, sec. 2. Acts 1917, ch. 139, secs. 3, 47. Acts 1919, ch. 150, sec. 1; ch. 186, sec. 3.

may provide voting machines;³³ divided the county into four councilmanic districts (for county council) in 1899 and may change the boundaries thereof at intervals of not less than 6 years each;³⁴ may order elections (not oftener than once each 3 years) on the question of change of county boundaries or formation of a new county;³⁵ may order an election on the question of establishment of a sanitary district within the county;³⁶ may establish and maintain libraries³⁷ and hospitals;³⁸ may establish and maintain an asylum for orphan children;³⁹ has control of the county poor asylum;⁴⁰ may establish a workhouse and employ a superintendent thereof;⁴¹ inspects the county jail⁴² and poor asylum;⁴³ may prescribe regulations governing the work of prisoners outside the jail;⁴⁴ maintains standards of weights and measures;⁴⁵ may order the

Acts 1920 (Spec. Sess.), ch. 10, sec. 2. Acts 1925, ch. 138, sec. 15. Acts 1927, ch. 195, sec. 1. Acts 1915; Burns 29-518; Baldwin 7204. Acts 1933; Burns 29-319, 29-1808; Baldwin 7317, 11632. Acts 1889, 1907; Burns 29-801 *et seq.*; Baldwin 7089 *et seq.* Acts 1920 (Spec. Sess.); Burns 29-901; Baldwin 7091. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

³³ Rev. L. 1824, ch. 35, sec. 18. Rev. L. 1831, ch. 32, secs. 18, 19. Rev. Stat. 1838, ch. 32, secs. 10, 30. Rev. Stat. 1843, ch. 5, secs. 25-28. 1 Rev. Stat. 1852, ch. 31, sec. 12. Acts 1881 (Spec. Sess.), ch. 47, sec. 18. Acts 1899, ch. 155, sec. 1. Acts 1901, ch. 260, sec. 25. Acts 1907, ch. 282, secs. 10, 14. Acts 1915; Burns 29-554; Baldwin 7240. Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1889; Burns 29-1101; Baldwin 7101. Acts 1897; Burns 29-1121; Baldwin 7135. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

³⁴ Acts 1899; Burns 26-502; Baldwin 5366.

³⁵ Acts 1857, ch. 15. Acts 1859, ch. 22, sec. 1. Acts 1875; Burns 26-201; Baldwin 5032. Acts 1861; Burns 26-301; Baldwin 5044.

³⁶ Acts 1913, 1931; Burns 48-4101; Baldwin 11720.

³⁷ Rev. L. 1824, ch. 60, sec. 9. Rev. L. 1831, ch. 59, secs. 9, 10. Rev. Stat. 1843, ch. 25, secs. 78-81. Acts 1846-47 (general), ch. 70. 1 Rev. Stat. 1852; Burns 41-501, 41-502; Baldwin 10321 note. Acts 1917, 1921, 1927; Burns 41-510; Baldwin 10321. *Opinions of the Attorney General of Indiana*, 1939, p. 124.

³⁸ Acts 1903; Burns 22-3201; Baldwin 4507. Acts 1907; Burns 48-7514; Baldwin 4539.

³⁹ Acts 1897; Burns 22-2601; Baldwin 4382. Acts 1881, 1885 (Spec. Sess.), 1891; Burns 22-2603; Baldwin 4397.

⁴⁰ Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. 1 Rev. Stat. 1852, ch. 81, secs. 25-38. Acts 1899, ch. 76. Acts 1913, ch. 260.

⁴¹ Acts 1879 (Spec. Sess.); Burns 13-1101, 13-1102; Baldwin 13759, 13760.

⁴² Acts 1807, ch. 11, sec. 8. Acts 1909; Burns 13-1008; Baldwin 13460.

⁴³ Rev. Stat. 1843, ch. 19, sec. 38. 1 Rev. Stat. 1852, ch. 115, sec. 3 (repealed by Acts 1853, ch. 119, sec. 1). 1 Rev. Stat. 1852, Acts 1899; Burns 52-205; Baldwin 13373.

⁴⁴ Acts 1879, ch. 26. Acts 1905; Burns 9-2229; Baldwin 2336.

⁴⁵ Rev. L. 1824, ch. 109, sec. 5; ch. 116. Rev. L. 1831, ch. 110. Rev. Stat. 1838, ch. 114. Rev. Stat. 1843, ch. 63. 1 Rev. Stat. 1852, ch. 117. Acts 1911, ch. 263, secs. 3-7. Acts 1913, ch. 161, sec. 1.

establishment of a permanent meridian line in the county;⁴⁶ may regulate traffic on the county roads;⁴⁷ may enforce regulations of the Administrative Building Council of Indiana;⁴⁸ may determine the question of public utility of a levee petitioned for by a levee association;⁴⁹ may receive funds and property from private sources and hold the same in trust for certain purposes;⁵⁰ may receive donations for bridges,⁵¹ parks, monuments, and public grounds;⁵² may make donations for certain educational purposes;⁵³ may order elections on the question of public aid to railroads and may grant such aid when authorized by election;⁵⁴ receives petitions for aid to historical societies, makes estimates and recommendations as to amounts of funds needed, and refers the same to the county council for action thereon;⁵⁵ may cancel allowances and warrants drawn thereon if not called for within 5 years;⁵⁶ may order the county auditor to issue fee bills for costs "in cases tried and heard" before the board "in which costs are adjudged against any party";⁵⁷ may grant franchises to street

⁴⁶ Acts 1895; Burns 49-3327; Baldwin 10849.

⁴⁷ Rev. Stat. 1838, ch. 91, sec. 85. Rev. Stat. 1843, ch. 53, sec. 103. Acts 1848-49 (general), ch. 109, secs. 118, 121, 122. Acts 1929, ch. 190, sec. 1. Acts 1919; Burns 36-706; Baldwin 8899. Acts 1939; Burns, 1940 suppl., 47-1813, 47-1827, 47-1828, 47-2004, 47-2005; Baldwin, 1939 suppl., 11189-23, 11189-37, 11189-38, 11189-65, 11189-66.

⁴⁸ Acts 1923; Burns 20-401, 20-408; Baldwin 4603, 4610.

⁴⁹ Acts 1905, ch. 168. Acts 1913, 1927; Burns 27-915; Baldwin 10241.

⁵⁰ Cemeteries. Acts 1838-39 (general), ch. 43, secs. 1, 3. Rev. Stat. 1843, ch. 25, secs. 63-67. Acts 1867, ch. 13, sec. 1. Acts 1881, ch. 12, secs. 1, 4, 5. Acts 1881 (Spec. Sess.); Burns 21-210, 21-211; Baldwin 4626, 4627. Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674. 1 Rev. Stat. 1852; Burns 25-1521; Baldwin 10660. Acts 1905; Burns 48-6003; Baldwin 12665.

Homes for indigent persons. Acts 1889; Burns 26-1204; Baldwin 5297. Acts 1903; Burns 26-1205; Baldwin 13446.

Bounty for volunteers to military and naval service. Acts 1869 (Spec. Sess.), ch. 17, sec. 1.

⁵¹ Rev. L. 1824, ch. 87, sec. 30. Rev. L. 1831, ch. 82, sec. 67. Rev. Stat. 1838, ch. 91, sec. 62. Rev. Stat. 1843, ch. 16, sec. 61. Acts 1848-49 (general), ch. 109, sec. 62. Acts 1857, ch. 11, sec. 3. Acts 1905; Burns 36-1902; Baldwin 9864.

⁵² Acts 1865 (Spec. Sess.), ch. 73. Acts 1872 (Spec. Sess.), ch. 6. Acts 1885 (Spec. Sess.), ch. 72. Acts 1903, ch. 138. Acts 1907, ch. 77.

⁵³ Acts 1889, ch. 230, sec. 1. Acts 1899, ch. 187, sec. 10. Acts 1897; Burns 28-5503 to 28-5506; Baldwin 6784 to 6787.

⁵⁴ Acts 1869 (Spec. Sess.), 1875 (Spec. Sess.), 1879; Burns 55-302, 55-314; Baldwin 14336, 14348. Acts 1872 (Spec. Sess.); Burns 55-404, 55-411, 55-416; Baldwin 14382, 14389, 14394.

⁵⁵ Acts 1901, ch. 233. Acts 1929; Burns 26-1303, 26-1304; Baldwin 5577, 5578.

⁵⁶ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁵⁷ Acts 1865 (Spec. Sess.); Burns 26-639; Baldwin 5360.

railroad companies for the extension of tracks beyond city limits;⁵⁸ may authorize the fencing of lands subject to overflow and the charging of special assessments against the lands benefited thereby;⁵⁹ may make special assessments to pay the cost of construction of roads;⁶⁰ may subscribe for newspapers printed in the county and require the recorder to preserve copies thereof;⁶¹ may order the reproduction of mutilated or decayed records;⁶² may administer oaths; enforce its orders; punish for contempt;⁶³ may authorize the payment of certain bounties;⁶⁴ and may offer rewards in case of murder or lynching.⁶⁵

The board receives and examines the treasurer's quarterly reports,⁶⁶ and makes annual settlements with him;⁶⁷ annually prepares a statement of the receipts and disbursements of the previous year, and causes it to be published and posted;⁶⁸ makes an annual report concerning the school

⁵⁸ Acts 1875 (Spec. Sess.); Burns 55-610; Baldwin 14151. Acts 1865, 1879 (Spec. Sess.); Burns 55-3901; Baldwin 15457.

⁵⁹ Acts 1875; Burns 30-501 to 30-503; Baldwin 7642 to 7644. Acts 1877 (Spec. Sess.); Burns 30-605 to 30-608; Baldwin 7655 to 7657.

⁶⁰ Rev. Stat. 1843, ch. 16, sec. 59. 1 Rev. Stat. 1852, ch. 20, secs. 21, 22; ch. 81, secs. 29, 35. Acts 1865, ch. 39, secs. 4-7. Acts 1889, ch. 137, sec. 5. Acts 1893, ch. 112, sec. 6. Acts 1895, ch. 63, sec. 6. Acts 1905, ch. 167, sec. 90. Acts 1907, ch. 132; ch. 209, sec. 10; ch. 276, sec. 2. Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1412 to 36-1414; Baldwin 8915 to 8917.

⁶¹ 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

⁶² Acts 1877; Burns 26-634, 26-635; Baldwin 5339, 5340. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432. 2 Rev. Stat. 1852; Burns 57-101, 57-102, 57-109, 57-111; Baldwin 1168, 1169, 1176, 1178.

⁶³ Acts 1811, ch. 16, sec. 4; ch. 35, sec. 1. Acts 1832-33, ch. 58, sec. 11. Acts 1833-34, ch. 20, secs. 1, 2; ch. 24. Rev. Stat. 1838, ch. 21, sec. 38; ch. 76, sec. 3. Rev. Stat. 1843, ch. 7, secs. 10, 11. 1 Rev. Stat. 1852; Burns 26-619; Baldwin 5233.

⁶⁴ Acts 1817-18 (general), ch. 77, sec. 5. Acts 1826-27, ch. 103, sec. 4. Rev. Stat. 1838, ch. 15, sec. 3. Acts 1839-40 (general), ch. 38. Acts 1844-45 (general), ch. 46, sec. 5. 1 Rev. Stat. 1852, ch. 118. Acts 1867, ch. 9, sec. 3. Acts 1873, ch. 14, secs. 1, 2. 1 Rev. Stat. 1852, Acts 1875, 1883, 1911; Burns 26-1101 to 26-1103, 26-1105, 26-1106; Baldwin 5288, 5289, 3802, 5293, 5294.

⁶⁵ Acts 1899; Burns 26-1104; Baldwin 5290.

⁶⁶ Rev. L. 1824, ch. 23, sec. 4. Acts 1842-43 (general), ch. 74, sec. 1. Acts 1871, ch. 17, sec. 31. Acts 1873, ch. 48, sec. 41. Acts 1895, 1913; Burns 49-1403; Baldwin 7578.

⁶⁷ Acts 1817-18 (general), ch. 44, sec. 3. Acts 1842-43 (general), ch. 90. Rev. Stat. 1843, ch. 7, sec. 90. Acts 1845-46 (general), ch. 48, sec. 1. Acts 1899, ch. 36, sec. 1. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5563.

⁶⁸ Rev. L. 1824, ch. 15, sec. 6; ch. 16, sec. 9. Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 35. 1 Rev. Stat. 1852, ch. 20, sec. 29. Acts 1899; Burns 26-546; Baldwin 5411.

funds (after receiving reports from the county treasurer and auditor), makes a permanent record of this report, and sends a copy to the auditor of state;⁶⁹ may approve (subject to further approval by the state board of accounts) the installation of a modern tax-accounting system in the offices of the auditor and treasurer;⁷⁰ and may authorize county officers to use a photographic process for recording deeds, mortgages, and other instruments.⁷¹ The board may license ferries⁷² and fix ferry rates;⁷³ may make certain regulations concerning the operation of ferries;⁷⁴ may authorize elections for the incorporation of towns and declare the results thereof;⁷⁵ may authorize a town to annex unplatted lots;⁷⁶ and may specify "what kind of animals shall be allowed to pasture or run at large on the uninclosed lands or public commons" within the bounds of any township in the county.⁷⁷

The board cannot bind the county by any contract or agreement, or in any other way, to any extent beyond the amount of money already appropriated by ordinance of the county council for the purpose of the obligation attempted to be incurred, unless some law enacted after 1897 expressly authorizes such action.⁷⁸

⁶⁹ Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

⁷⁰ Acts 1937; Burns, 1940 suppl., 60-238 to 60-240; Baldwin, 1937 suppl., 15868-1 to 15868-3.

⁷¹ Acts 1927; Burns 49-3207; Baldwin 14667.

⁷² Rev. L. 1824, ch. 41, secs. 8, 11; ch. 42, secs. 1-3, 5, 8, 12; ch. 86, sec. 1. Rev. L. 1831, ch. 38, secs. 1, 2, 4, 8. Rev. Stat. 1838, ch. 41, secs. 1, 2, 4, 8, 9, 11. Rev. Stat. 1843, ch. 17, secs. 1-8. 1 Rev. Stat. 1852, ch. 80, sec. 27. Acts 1929, ch. 215, sec. 73. Acts 1881 (Spec. Sess.), 1911; Burns 36-2501 to 36-2504; Baldwin 7676 to 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2601 to 36-2607; Baldwin 7691 to 7697. Acts 1881 (Spec. Sess.), 1897; Burns 36-2608 to 36-2618; Baldwin 7698 to 7708. Acts 1917, 1937; Burns, 1940 suppl., 42-201; Baldwin, 1937 suppl., 10443.

⁷³ Rev. L. 1824, ch. 42, sec. 6. Rev. L. 1831, ch. 26, sec. 43; ch. 38, sec. 10. Rev. Stat. 1838, ch. 41, sec. 10. 1 Rev. Stat. 1852, ch. 39, sec. 10; ch. 80, sec. 27. Acts 1929, ch. 215, sec. 73. Acts 1881 (Spec. Sess.), 1897; Burns 36-2613; Baldwin 7703.

⁷⁴ Rev. L. 1824, ch. 41, sec. 8; ch. 42, sec. 8. Rev. L. 1831, ch. 38, secs. 5, 7, 11. Rev. Stat. 1843, ch. 17, sec. 9. 1 Rev. Stat. 1852; Burns 36-2606; Baldwin 9876. Acts 1881 (Spec. Sess.); Burns 36-2614; Baldwin 9884.

⁷⁵ Rev. Stat. 1838, ch. 108, sec. 1. Rev. Stat. 1843, ch. 25, secs. 1, 2. Acts 1905, 1909; Burns 48-104, 48-105, 48-109; Baldwin 11327, 11328, 11332.

⁷⁶ 1 Rev. Stat. 1852, ch. 17, secs. 82, 83; ch. 108, secs. 51, 52. Acts 1857, ch. 33, secs. 1, 84, 85. Acts 1859, ch. 132, secs. 13, 14. Acts 1865 (Spec. Sess.), ch. 1, secs. 83, 84, 92. Acts 1867, ch. 15, secs. 85, 86. Acts 1909; Burns 48-707, 48-708; Baldwin 11340, 11341.

⁷⁷ Acts 1843-44 (general), ch. 45. 1 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 16-101, 16-102; Baldwin 5028, 5029.

⁷⁸ Acts 1899; Burns 26-525; Baldwin 5389.

The board has authority to appoint a county highway supervisor,⁷⁹ a county health officer,⁸⁰ a public health nurse,⁸¹ a county inspector of weights and measures,⁸² a superintendent of the poor asylum,⁸³ food inspectors (beef, flour, pork, salt, and hay),⁸⁴ an appraiser of state lands,⁸⁵ fence viewers,⁸⁶ a board of visitors (one member from each township) to the county asylum,⁸⁷ one member of the local alcoholic beverage board,⁸⁸ five members of a county planning commission,⁸⁹ three members of the county public library board,⁹⁰ and three members of a miners' examination board;⁹¹ may employ a county attorney,⁹² tax ferrets,⁹³ a civil engineer (if the surveyor is not a competent civil engineer),⁹⁴ bridge

⁷⁹ Acts 1933; Burns 36-1110; Baldwin 8708. See the essay entitled "County Highway Supervisor."

⁸⁰ Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. See the essay entitled "County Health Officer."

⁸¹ Acts 1935; Burns, 1940 suppl., 35-123; Baldwin, 1935 suppl., 8404-6.

⁸² Acts 1911, ch. 263, sec. 3. Acts 1913, ch. 161, sec. 1. Acts 1925; Burns 69-104, 69-107; Baldwin 16335, 16338.

⁸³ Rev. L. 1831, ch. 69, sec. 29. Rev. Stat. 1838, ch. 79, sec. 33. Rev. Stat. 1843, ch. 19, sec. 34. 1 Rev. Stat. 1852; Burns 52-201; Baldwin 13360. Acts 1927; Burns 22-3009; Baldwin 4354. Acts 1899, 1913; Burns 52-204; Baldwin 13365.

⁸⁴ Rev. L. 1824, ch. 109, sec. 4. Rev. L. 1831, ch. 50, secs. 1-6. Acts 1833-34, ch. 72, secs. 1, 14. Rev. Stat. 1838, ch. 53, secs. 1, 3, 6. Acts 1839-40 (general), ch. 21, sec. 1. Rev. Stat. 1843, ch. 27, secs. 1, 3. Acts 1847-48 (general), ch. 13, sec. 1. 1 Rev. Stat. 1852; Burns 35-1901; Baldwin 9468.

⁸⁵ Acts 1899, ch. 162, sec. 2. Acts 1889; Burns 62-207; Baldwin 15273.

⁸⁶ Rev. L. 1824, ch. 15, sec. 7; ch. 38, secs. 2, 3; ch. 69, sec. 3. Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20-23. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69-71. Acts 1877 (Spec. Sess.); Burns 30-605; Baldwin 7655. Acts 1875; Burns 30-501; Baldwin 7642.

⁸⁷ 1 Rev. Stat. 1852; Burns 52-217; Baldwin 13377.

⁸⁸ Acts 1935, 1937; Burns, 1940 suppl., 12-417; Baldwin, 1937 suppl., 3764-6.

⁸⁹ Acts 1935; Burns, 1940 suppl., 26-2301; Baldwin, 1935 suppl., 5205-1.

⁹⁰ Acts 1917, 1921, 1927, 1939; Burns, 1940 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁹¹ Acts 1923; Burns 46-1001; Baldwin 11073.

⁹² Acts 1917; Burns 10-3103; Baldwin 822. Acts 1899; Burns 26-519; Baldwin 5383.

⁹³ Acts 1905; Burns 64-2830; Baldwin, 1935 suppl., 15696-1.

⁹⁴ Acts 1816-17, ch. 26, sec. 1. Acts 1877, ch. 47, sec. 1. Acts 1891, ch. 196, sec. 3. Acts 1895, ch. 63, sec. 1. Acts 1899, ch. 97, sec. 1; ch. 109, sec. 1; ch. 206, sec. 4. Acts 1901, ch. 205, secs. 1, 10, 14; ch. 235, sec. 1. Acts 1903, ch. 145, sec. 2. Acts 1883; Burns 26-1405; Baldwin 5317. Acts 1919; Burns 36-306, 36-505; Baldwin 8864, 8883. Acts 1905, 1907; Burns 36-1205, 36-1301; Baldwin 8808, 8787. Acts 1903; Burns 36-1235; Baldwin 9095. Acts 1921; Burns 36-1410; Baldwin 8913. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

superintendents,⁹⁵ a custodian of public halls,⁹⁶ inspectors for construction and repair of county buildings,⁹⁷ a commissioner to reproduce county records which have been mutilated or destroyed,⁹⁸ road viewers and reviewers,⁹⁹ a county veterinarian,¹⁰⁰ a physician for poor persons (in county institutions) and prisoners;¹⁰¹ may regulate the number of justices of the peace in each township (subject to certain statutory requirements), and may appoint justices in certain instances;¹⁰² may authorize the appointment of deputies and assistants of county officers;¹⁰³ approves the official bonds¹⁰⁴ of the

⁹⁵ Rev. L. 1824, ch. 87, sec. 27. Rev. L. 1831, ch. 82, sec. 62. Rev. Stat. 1838, ch. 91, sec. 57. Rev. Stat. 1843, ch. 16, sec. 62. 1 Rev. Stat. 1852, chs. 16, 92. Acts 1855, ch. 5, sec. 4. Acts 1869 (Spec. Sess.), ch. 8, sec. 2. Acts 1905, 1911, 1913; Burns 36-2001; Baldwin 9191. Acts 1903; Burns 36-2003; Baldwin 9193. Acts 1895; Burns 36-2217; Baldwin 9232.

⁹⁶ Acts 1903; Burns 26-1904; Baldwin 5149.

⁹⁷ Acts 1907; Burns 26-2006; Baldwin 5105.

⁹⁸ 2 Rev. Stat. 1852. Acts 1865; Burns 57-109; Baldwin 1176.

⁹⁹ Rev. L. 1824, ch. 87, secs. 4-7, 9, 15, 24. Rev. L. 1831, ch. 82, secs. 4, 53. Rev. Stat. 1838, ch. 91, secs. 4, 7, 10, 13, 44, 71, 72, 74, 75, 79. Rev. Stat. 1843, ch. 16, secs. 13, 18, 22, 33, 39. 1 Rev. Stat. 1852, ch. 48, secs. 9, 15, 19, 22, 23, 28, 31, 46. Acts 1877, ch. 47, secs. 2-6. Acts 1891 (Spec. Sess.), ch. 61, sec. 2. Acts 1893, ch. 128, secs. 2, 3. Acts 1895, ch. 63, sec. 1. Acts 1899, ch. 97, sec. 1; ch. 109, sec. 1; ch. 206, sec. 4. Acts 1901, ch. 205, secs. 1, 14. Acts 1905, ch. 167, sec. 84. Acts 1929, ch. 215, sec. 73. Acts 1905, 1907, 1911, 1913; Burns 36-201, 36-205, 36-209, 36-216, 36-220, 36-221, 36-223, 36-224, 36-1205, 36-1215, 36-1301; Baldwin 8756, 8760, 8764, 8773, 8776, 8777, 8780, 8781, 8808, 9097, 8787. Acts 1907; Burns 36-405; Baldwin 8996. Acts 1909; Burns 36-805, 36-808; Baldwin 9113, 9116. Acts 1933; Burns 36-1108; Baldwin 8076. Acts 1903; Burns 36-1235; Baldwin 9095. Acts 1921; Burns 36-1430; Baldwin 8933. Acts 1935; Burns, 1940 suppl., 36-2704, 36-2705; Baldwin, 1935 suppl., 14775-4, 14775-5.

¹⁰⁰ Acts 1925; Burns 16-609; Baldwin 3872. Acts 1915; Burns 16-703; Baldwin 3853.

¹⁰¹ 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81, sec. 27. Acts 1859, ch. 5, sec. 1. Acts 1899; Burns 26-533; Baldwin 5398. Lamar v. Board of County Comrs., 4 Ind. App. 191, 30 N. E. 912 (1892).

¹⁰² Rev. L. 1824, ch. 36, secs. 5-7. Rev. L. 1831, ch. 33, secs. 5-7. 2 Rev. Stat. 1852, pt. 4, ch. 1, sec. 1. Acts 1913; Burns 5-101; Baldwin 1828. Acts 1891, 1923; Burns 5-109, 5-110; Baldwin 1833, 1834.

Formerly the board ordered special elections to fill vacancies in the office of justice of the peace. Acts 1819-20, ch. 21, sec. 2. Acts 1838-39 (general), ch. 83, sec. 2.

¹⁰³ Acts 1816-17, ch. 26, sec. 1. Acts 1840-41 (general), ch. 3, sec. 6. Rev. Stat. 1843, ch. 7, sec. 63. Acts 1891, ch. 99, sec. 113. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532. Acts 1937; Burns, 1940 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1.

¹⁰⁴ Acts 1851-52; Burns 49-123; Baldwin 13093.

auditor,¹⁰⁵ clerk of the circuit court,¹⁰⁶ coroner,¹⁰⁷ county highway supervisor,¹⁰⁸ recorder,¹⁰⁹ sheriff,¹¹⁰ surveyor,¹¹¹ and treasurer;¹¹² may remove a delinquent county treasurer after suit on his official bond has been commenced;¹¹³ may remove township trustees from office for failure to keep proper books and accounts as required by the school laws;¹¹⁴ and may appoint successors in case of any vacancy in the offices of auditor, clerk of the circuit court, coroner, county assessor, surveyor, sheriff, treasurer,¹¹⁵ and any officers originally appointed to office by the board of commissioners.¹¹⁶ Appointments made by the board are certified by the auditor.¹¹⁷

The members of the board of commissioners are ex officio members of the county board of finance.¹¹⁸ The president of the board of commissioners is an ex officio member of the commission of public records.¹¹⁹ The three county commis-

¹⁰⁵ Acts 1840-41 (general), ch. 2, secs. 2, 5. Rev. Stat. 1843, ch. 7, secs. 45, 49. Acts 1847-48 (general), ch. 58. 1 Rev. Stat. 1852, ch. 8, sec. 2. Acts 1889; Burns 49-3003; Baldwin 5417.

¹⁰⁶ Acts 1807, ch. 71, sec. 1. Acts 1847-48 (general), ch. 58. Acts 1851-52; Burns 49-123; Baldwin 13093. Acts 1875; Burns 49-2703; Baldwin 1430.

¹⁰⁷ Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

¹⁰⁸ Acts 1925; Burns 69-106; Baldwin 16337.

¹⁰⁹ Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

¹¹⁰ Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1940 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

¹¹¹ Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

¹¹² Rev. L. 1824, ch. 23, sec. 1. Rev. L. 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1. Rev. Stat. 1843, ch. 7, secs. 67, 74. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548.

¹¹³ 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

¹¹⁴ Acts 1865; Burns 28-2420; Baldwin 5980.

¹¹⁵ 1 Rev. Stat. 1852; Burns 49-405; Baldwin 13104. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

Treasurer. Acts 1817-18 (general), ch. 44, sec. 3. Acts 1845-46 (general), ch. 2, sec. 1.

Notice of resignations. 1 Rev. Stat. 1852; Burns 49-206; Baldwin 13100.

¹¹⁶ See the authorities cited above for the appointment of officers by the board of commissioners. Resignations. 1 Rev. Stat. 1852; Burns 49-205; Baldwin 13099.

¹¹⁷ 1 Rev. Stat. 1852; Burns 49-204; Baldwin 13098.

¹¹⁸ Acts 1937; Burns, 1940 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. See the essay entitled "Board of Finance."

¹¹⁹ Acts 1939, ch. 91, sec. 1. See the essay entitled "Commission of Public Records."

sioners are members of the county hospital governing board when such board exists, and serve with eight members appointed by the judge of the circuit court.¹²⁰ Members of the board of commissioners served on the county board of equalization from 1841 until 1891.¹²¹

The county council and the board of commissioners, acting together, approve the acceptance of lands donated to the county for purposes of a public forest;¹²² hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit court;¹²³ determine, on proper petition, the order in which county road projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;¹²⁴ and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.¹²⁵

Formerly the board of commissioners could appoint appraisers (taxes, 1841 to 1872),¹²⁶ assessors (taxes, 1826 to 1841),¹²⁷ a clerk of the board of turnpike directors (1879 to 1913),¹²⁸ a commissioner of the 3 percent fund (1833 to

¹²⁰ Acts 1903, 1939; Burns, 1940 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

¹²¹ Acts 1833-39 (general), ch. 14, secs. 5, 14, 15. Acts 1840-41 (general), ch. 1, secs. 9, 13, 18; ch. 5, sec. 14. Acts 1850-51 (general), ch. 5, sec. 14. Acts 1851-52, ch. 7, sec. 58. 1 Rev. Stat. 1852, ch. 6, secs. 58, 91; ch. 35, sec. 2. Acts 1867, ch. 110, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1881 (Spec. Sess.), ch. 96, sec. 129. Acts 1891, ch. 99, sec. 114.

¹²² Acts 1929; Burns 32-105; Baldwin 4879.

¹²³ Acts 1931; Burns 28-3001; to 28-3006; Baldwin 6143 to 6148.

¹²⁴ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

¹²⁵ Acts 1935; Burns, 1940 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

¹²⁶ Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1845-46 (general), ch. 105. Acts 1850-51 (general), ch. 5, secs. 1, 3. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

Office of appraiser replaced by office of county assessor. Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

¹²⁷ Rev. L. 1824, ch. 86, secs. 5-7, 29, 42. Rev. L. 1831, ch. 61, secs. 3, 4. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, sec. 12. Acts 1840-41 (general), ch. 3, sec. 1.

¹²⁸ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1883, ch. 99, sec. 1. Acts 1893, ch. 163, sec. 1.

Board of turnpike directors was abolished in 1913. Acts 1913, ch. 330, secs. 1, 2. State *ex rel.* Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914).

1853),¹²⁹ a county agent (1826 to 1853),¹³⁰ constables (1826 to 1853),¹³¹ a county surveyor (1831 to 1833, 1843 to 1851),¹³² drainage commissioners and appraisers (1863 to 1933),¹³³ election inspectors (1826 to 1929),¹³⁴ a librarian and a treasurer for the county library,¹³⁵ liquor agents (1855 to 1858),¹³⁶ listers (taxes, 1826 to 1831),¹³⁷ a matron for pauper children (1881 to 1936),¹³⁸ overseers of the poor (1826 to 1853),¹³⁹ a poundkeeper (1826 to 1853),¹⁴⁰ road commissioners (1826

¹²⁹ Acts 1832-33, ch. 58, secs. 2, 5, 6. Acts 1835-36 (general), ch. 42, sec. 2. Acts 1836-37 (general), ch. 35, secs. 2, 3. Rev. Stat. 1838, ch. 107 (first act), secs. 2, 3. Rev. Stat. 1843, ch. 7, sec. 32. 1 Rev. Stat. 1852, chs. 44, 92. Acts 1881 (Spec. Sess.), ch. 102.

¹³⁰ Rev. L. 1824, ch. 93, secs. 1, 2, 4, 8, 11. Rev. L. 1831, ch. 85, secs. 1, 2, 4, 6, 11. Rev. Stat. 1838, ch. 93, secs. 1, 2, 4, 11. Rev. Stat. 1843, ch. 4, sec. 48; ch. 18, secs. 5, 12, 13, 17. Acts 1851-52, ch. 2.

¹³¹ Rev. L. 1824, ch. 13, secs. 1, 6; ch. 15, sec. 7. Rev. L. 1831, ch. 17, secs. 5, 9, 20; ch. 20, sec. 20. Rev. Stat. 1838, ch. 19, secs. 1, 5; ch. 21, secs. 20-22. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 70, 71. 1 Rev. Stat. 1852, ch. 115, sec. 4. 2 Rev. Stat. 1852, pt. 4, ch. 2, sec. 1.

¹³² Rev. L. 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (first act), sec. 1; ch. 103 (second act), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

¹³³ Acts 1863, ch. 27, sec. 1. Acts 1867, ch. 99, sec. 1. Acts 1873, ch. 66, sec. 13. Acts 1875, ch. 64, secs. 1, 5. Acts 1879 (Spec. Sess.), ch. 121, sec. 1. Acts 1883, ch. 132, secs. 2, 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1889, ch. 67, sec. 13. Acts 1891, ch. 196, sec. 3. Acts 1893, ch. 146, sec. 3; ch. 148, sec. 1. Acts 1895, ch. 157, sec. 1. Acts 1901, ch. 235, sec. 1. Acts 1903, ch. 18, sec. 1; ch. 126, sec. 1. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, secs. 1, 21. Acts 1933, ch. 264, sec. 81.

¹³⁴ Rev. L. 1824, ch. 15, sec. 7; ch. 35, sec. 1; ch. 36, sec. 5. Rev. L. 1831, ch. 20, sec. 20; ch. 33, sec. 5. Rev. Stat. 1838, ch. 21, secs. 20, 22. Rev. Stat. 1843, ch. 4, secs. 26, 27; ch. 5, secs. 69, 71. 1 Rev. Stat. 1852, ch. 31, secs. 3, 4. Acts 1877 (Spec. Sess.), ch. 15, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 10, 11. Acts 1889, ch. 87, secs. 3, 4. Acts 1897, ch. 131. Acts 1901, ch. 201, sec. 1.

These laws were superseded as to primary elections by an act of 1915 and as to general elections by an act of 1929. Acts 1915, ch. 105, secs. 5, 7. Acts 1929, ch. 150.

¹³⁵ Acts 1845-46 (general), ch. 9.

¹³⁶ Acts 1855, ch. 105, secs. 5, 7. Acts 1858 (Spec. Sess.), ch. 15, sec. 1.

¹³⁷ Rev. L. 1824, ch. 15, sec. 7. Rev. L. 1831, ch. 81, secs. 3, 4.

¹³⁸ Acts 1881 (Spec. Sess.), ch. 81, secs. 1, 2, 5. Acts 1936 (Spec. Sess.), ch. 3, secs. 5, 24, 129.

¹³⁹ Rev. L. 1824, ch. 15, sec. 7; ch. 72, secs. 1, 2. Rev. L. 1831, ch. 20, sec. 20. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 79, secs. 1, 9. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71. 1 Rev. Stat. 1852, ch. 81, secs. 1, 2; ch. 110, secs. 5, 17.

¹⁴⁰ Rev. L. 1824, ch. 15, sec. 7; ch. 39, sec. 11. Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, secs. 49, 146, 160; ch. 7, sec. 20. 1 Rev. Stat. 1852, ch. 92.

to 1865),¹⁴¹ road superintendents (1877 to 1933),¹⁴² road supervisors (township or district, 1826 to 1853),¹⁴³ school examiners (1853 to 1873),¹⁴⁴ school superintendents and trustees (lands and funds, 1826 to 1853),¹⁴⁵ a tax collector (1826 to 1841),¹⁴⁶ tobacco inspectors (1826 to 1857),¹⁴⁷ a treasurer (1826 to 1841),¹⁴⁸ two members of each township board of registry (1867 to 1869),¹⁴⁹ a board of visitors (three members) for examination of homes where pauper children were kept (1881 to 1936),¹⁵⁰ and township agents to disburse money for certain relief to soldiers, sailors, marines, and their families (1865 and 1866).¹⁵¹

Formerly the board of commissioners drew orders on the county treasurer and had them attested by the clerk of the board (1826 to 1843);¹⁵² required the making of tax lists by

¹⁴¹ Acts 1822-23, ch. 25, sec. 5. Rev. Stat. 1838, ch. 91, secs. 66, 67, 75, 79. Rev. Stat. 1843, ch. 16, secs. 5, 6. 1 Rev. Stat. 1852, ch. 48, secs. 1-4, 46; ch. 115, sec. 4. Acts 1865 (Spec. Sess.), ch. 29, secs. 2, 3.

¹⁴² Acts 1877, ch. 47, sec. 1. Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1883, ch. 99, sec. 1. Acts 1885 (Spec. Sess.), ch. 57, secs. 9, 10. Acts 1901, ch. 202, sec. 2. Acts 1903, ch. 145, sec. 9. Acts 1905, chs. 167, secs. 51, 79, 86. Acts 1913, ch. 330, sec. 1. Acts 1921, ch. 95. Acts 1919; Burns 36-306, 36-307, 36-325; Baldwin 8864, 8865, 8877. Acts 1933; Burns 36-1102, 36-1110, 36-1113; Baldwin 8700, 8078.

¹⁴³ Rev. L. 1824, ch. 87, sec. 12. Rev. L. 1831, ch. 20, sec. 20; ch. 82, sec. 47. Rev. Stat. 1838, ch. 21, sec. 22; ch. 91, sec. 35. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69, 71; ch. 16, secs. 75-79. 1 Rev. Stat. 1852, ch. 102, secs. 1-4.

¹⁴⁴ Acts 1853, ch. 106, sec. 6(1). Acts 1855, ch. 86, sec. 146. Acts 1861, ch. 41, sec. 32. Acts 1865, ch. 1, sec. 33. Acts 1873, ch. 25, sec. 2.

¹⁴⁵ Rev. L. 1824, ch. 15, sec. 7; ch. 22, secs. 2, 3; ch. 97, sec. 1. Rev. L. 1831, ch. 20, sec. 25; ch. 86, secs. 6, 33, 50, 51; ch. 90, secs. 1, 7, 28. Rev. Stat. 1838, ch. 21, sec. 25; ch. 94(2), sec. 2; ch. 98, secs. 1, 28. Rev. Stat. 1843, ch. 14, sec. 31. Rev. Stat. 1852, ch. 97.

¹⁴⁶ Rev. L. 1824, ch. 86, secs. 18, 42. Rev. L. 1831, ch. 81, secs. 17, 18. Acts 1835-36 (general), ch. 7, secs. 32, 35. Acts 1840-41 (general), ch. 4, secs. 1, 13-22.

¹⁴⁷ Rev. L. 1824, ch. 109, sec. 4. Rev. L. 1831, ch. 50, sec. 6. Rev. Stat. 1838, ch. 53. Rev. Stat. 1843, ch. 27, sec. 7. 1 Rev. Stat. 1852, ch. 55, sec. 1.

The power to appoint tobacco inspectors was transferred to the judge of the circuit court in 1857. Acts 1857; Burns 67-308; Baldwin 9461.

¹⁴⁸ Rev. L. 1824, ch. 15, sec. 7; ch. 23, secs. 1, 2. Rev. L. 1831, ch. 21, secs. 1, 6. Rev. Stat. 1838, ch. 22, secs. 1, 6. Rev. Stat. 1843, ch. 4, secs. 2, 18. Acts 1845-46 (general), ch. 2, sec. 1.

¹⁴⁹ Acts 1867, ch. 51, sec. 2. Acts 1869, (Spec. Sess.), ch. 31, sec. 1.

¹⁵⁰ Acts 1881 (Spec. Sess.), ch. 81, sec. 8. Acts 1936 (Spec. Sess.), ch. 3, secs. 5, 24, 129.

¹⁵¹ Acts 1865, ch. 40, secs. 8, 10, 16.

¹⁵² Rev. L. 1824, ch. 23, sec. 4. Rev. L. 1831, ch. 20, sec. 15. Rev. Stat. 1838, ch. 21, sec. 15. Rev. Stat. 1843, ch. 7, sec. 76.

tax officials, received and corrected these lists, and reviewed tax assessments (1826 to 1841);¹⁵³ made all county tax levies and rates (1826 to 1899);¹⁵⁴ authorized certain tax levies by township trustees (1859 to 1899);¹⁵⁵ granted certain exemptions from poll taxes (1826 to 1919),¹⁵⁶ road taxes (1843 to 1853),¹⁵⁷ and property taxes (1849 to 1853);¹⁵⁸ directed tax officials to prepare, post, and distribute lists of delinquent taxes (1831 to 1853);¹⁵⁹ charged and remitted tax penalties (1826 to 1843);¹⁶⁰ could make allowances to owners of property wrongfully seized, sold, or destroyed by any officer acting under the liquor laws (1859 to 1917);¹⁶¹ directed the administration of poor relief (1826 to 1936);¹⁶² audited the books

¹⁵³ Rev. L. 1824, ch. 15, sec. 8; ch. 86, sec. 3. Rev. L. 1831, ch. 20, sec. 9; ch. 81, secs. 5, 8, 14, 16, 27. Acts 1835-36 (general), ch. 7, secs. 5, 7, 17, 18, 25, 28, 29. Acts 1836-37 (general), ch. 60, sec. 1. Acts 1838-39 (general), ch. 14, sec. 15; ch. 58, sec. 2. Acts 1840-41 (general), ch. 9, sec. 4.

¹⁵⁴ Rev. L. 1824, ch. 15, sec. 8; ch. 86, secs. 1, 10. Rev. L. 1831, ch. 20, sec. 9; ch. 69, secs. 23, 25, 27; ch. 81, secs. 2, 13. Rev. Stat. 1838, ch. 79, secs. 29, 30; ch. 21, sec. 9. Rev. Stat. 1843, ch. 16, sec. 59; ch. 19, secs. 36, 43. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 21, 22, 28; ch. 81, secs. 29, 35. Acts 1859, ch. 133, sec. 8. Acts 1861, ch. 95, secs. 2, 3. Acts 1861 (Spec. Sess.), ch. 12, sec. 3. Acts 1863, ch. 16, sec. 1. Acts 1865, ch. 39, secs. 4-7. Acts 1865 (Spec. Sess.), ch. 28, sec. 8. Acts 1867, ch. 64. Acts 1873, ch. 99. Acts 1875, ch. 7, sec. 4. Acts 1879, ch. 13, sec. 4. Acts 1881 (Spec. Sess.), ch. 63, sec. 27. Acts 1885 (Spec. Sess.), ch. 5. Acts 1889, ch. 30, sec. 1; ch. 161; ch. 187, secs. 8, 9. Acts 1895, ch. 96, sec. 12.

County council now has general power to make tax levies and rates. Acts 1899; Burns 26-515; Baldwin 5379.

¹⁵⁵ Acts 1859, ch. 133, sec. 8. Acts 1861 (Spec. Sess.), ch. 12, sec. 3. Acts 1863, ch. 16, sec. 1. Acts 1865, ch. 39, secs. 4-7. Acts 1865 (Spec. Sess.), ch. 28, sec. 8. Acts 1867, ch. 64. Acts 1873, ch. 99. Acts 1879 (Spec. Sess.), ch. 95, sec. 3. Acts 1881 (Spec. Sess.), ch. 63, sec. 3. Acts 1899, 1917; Burns 65-301; Baldwin 16102.

¹⁵⁶ Rev. L. 1824, ch. 86, sec. 1. Rev. L. 1831, ch. 81, secs. 1, 2. Rev. Stat. 1838, ch. 21, sec. 36. Rev. Stat. 1843, ch. 7, sec. 33. 1 Rev. Stat. 1852, ch. 20, sec. 30 (repealed by Acts 1919, ch. 59, sec. 2). *Opinions of the Attorney General of Indiana, 1936*, p. 83.

¹⁵⁷ Rev. Stat. 1843, ch. 16, sec. 102. Acts 1848-49 (general), ch. 109, sec. 100. Acts 1849-50 (general), ch. 224, sec. 2. 1 Rev. Stat. 1852, ch. 102, sec. 9.

¹⁵⁸ Acts 1848-49 (general), ch. 106. 1 Rev. Stat. 1852, chs. 6, 92.

¹⁵⁹ Rev. L. 1831, ch. 81, sec. 33. Acts 1843-44 (general), ch. 113. Acts 1846-47 (general), ch. 30, sec. 5. 1 Rev. Stat. 1852, ch. 92.

¹⁶⁰ Acts 1817-18 (general), ch. 42, sec. 8. Rev. L. 1831, ch. 81, sec. 27. Rev. Stat. 1843, ch. 12, sec. 66. 1 Rev. Stat. 1852, ch. 6, sec. 96.

¹⁶¹ Acts 1859, ch. 68. Acts 1917, ch. 4, secs. 26, 40.

¹⁶² Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. Rev. L. 1824, ch. 15, sec. 7; ch. 72. Rev. L. 1831, ch. 20, sec. 20; ch. 69. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 52, sec. 3;

and accounts of all officers handling county funds (1826 to 1909);¹⁶³ audited the warrants of township trustees and reported thereon to the circuit court (1897 to 1899);¹⁶⁴ received reports from the judge of the circuit court concerning his examination of the office of the clerk of the circuit court (1852 to 1909);¹⁶⁵ received quarterly reports from the board

ch. 73, sec. 2; ch. 79. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71; ch. 19. 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81; ch. 110, secs. 5, 17. Acts 1857, ch. 8. Acts 1865, ch. 40. Acts 1873, ch. 41, sec. 1. Acts 1875, ch. 119, secs. 1, 2. Acts 1881, ch. 7. Acts 1881 (Spec. Sess.), ch. 81. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1899, chs. 76, 87; ch. 90, secs. 3, 6; ch. 154, sec. 33. Acts 1901, chs. 147, 155, 195, 206. Acts 1903, chs. 106, 144, 247. *Wayne Twp. v. Brown*, 205 Ind. 437, 186 N. E. 841 (1933). Acts 1936 (Spec. Sess.), ch. 3.

Children. Rev. L. 1824, ch. 72, sec. 6. Rev. Stat. 1838, ch. 79, secs. 6, 11. 1 Rev. Stat. 1852, ch. 81, secs. 23, 32; ch. 68, sec. 3. Acts 1875, ch. 119, secs. 1, 2. Acts 1881, ch. 7. Acts 1881 (Spec. Sess.), ch. 81, sec. 10. Acts 1885, ch. 36, sec. 1. Acts 1885 (Spec. Sess.), ch. 34. Acts 1887, ch. 86; ch. 107. Acts 1889, ch. 107, sec. 1. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1901, ch. 173, sec. 5.

Insane. Acts 1817-18 (general), ch. 63, sec. 5. Acts 1839-40 (general), ch. 52, sec. 1. Rev. Stat. 1843, ch. 46, sec. 181. 1 Rev. Stat. 1852, ch. 81, sec. 8.

Blind. Acts 1839-40 (general), ch. 51. Acts 1849-50 (general), ch. 13. Acts 1857, ch. 8.

Old-age pensions. Acts 1933, ch. 36 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

¹⁶³ Rev. L. 1824, ch. 22, secs. 3, 10; ch. 23, sec. 2; ch. 77, sec. 7; ch. 93, sec. 8. Rev. L. 1831, ch. 15, sec. 11; ch. 69, secs. 26, 27; ch. 75, sec. 7; ch. 85, sec. 8; ch. 86, secs. 50, 52; ch. 90, secs. 4, 20, 21. Rev. Stat. 1838, ch. 17, sec. 11; ch. 22, sec. 2; ch. 79, secs. 4, 27, 30; ch. 83, sec. 7; ch. 93, sec. 8; ch. 94(2), secs. 13, 15; (3), sec. 5; (5), sec. 21; (6), sec. 7; ch. 95, sec. 6; ch. 98, secs. 4, 7; ch. 107(2), sec. 1; (3), secs. 1, 3. [Acts 1839-40 (general), ch. 37, sec. 3.] Acts 1840-41 (general), ch. 4, secs. 7, 31; ch. 11(13), secs. 3, 5; (18), sec. 12. Acts 1841-42 (general), ch. 67, sec. 2; ch. 79, sec. 1. Rev. Stat. 1843, ch. 7, secs. 14, 78; ch. 13, sec. 100; ch. 15, secs. 117-120; ch. 19, secs. 31, 32. 1 Rev. Stat. 1852, ch. 6, secs. 121, 122; ch. 81, secs. 22, 23 (repealed by Acts 1881 (Spec. Sess.), ch. 81, sec. 13); ch. 93, secs. 63, 65, 121-125. Acts 1855, ch. 86, secs. 138-140. Acts 1859, ch. 133, sec. 14. Acts 1861, ch. 41, secs. 13, 149-151. Acts 1865 (Spec. Sess.), ch. 38, sec. 2. Acts 1893, ch. 88, sec. 4; ch. 146, sec. 21. 1 Rev. Stat. 1852, Acts 1935; Burns, 1940 suppl., 26-620; Baldwin, 1935 suppl., 5236. Acts 1897; Burns 26-636; Baldwin 5237. Acts 1865, 1873, 1883; Burns 28-2412, 28-2418 to 28-2420; Baldwin 6498, 5978 to 5980. Acts 1895; Burns 49-1409; Baldwin 7584. 1 Rev. Stat. 1852; Burns 49-3110; Baldwin 5555. Acts 1909; Burns 60-211; Baldwin 13862. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

¹⁶⁴ Acts 1897, ch. 144. Acts 1899, ch. 105, sec. 7.

¹⁶⁵ 2 Rev. Stat. 1852; Burns 49-2720; Baldwin 1439.

The examination of the clerk's office is now made by the state examiner. Acts 1909; Burns 60-211; Baldwin 13862. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

of charities and corrections (1899 to 1936);¹⁶⁶ selected grand jurors (1826 to 1881); and petit jurors (1826 to 1853);¹⁶⁷ received from justices of the peace and the clerk of the circuit court lists showing judgments of fines and the amounts collected thereon and paid to county treasurer (1826 to 1853);¹⁶⁸ provided blank forms for elections (1826 to 1881);¹⁶⁹ heard and decided election contests (1826 to 1933);¹⁷⁰ supervised the sale of town lots by the county agent, and assigned various other duties for him to perform as agent of the board (1826 to 1852);¹⁷¹ awarded scholarships to Indiana University (1834 to 1919) and Purdue University (1877 to 1935);¹⁷² could authorize the county auditor to employ an administrator of the school fund, and was required to approve the official bond of such administrator (1935 to 1937);¹⁷³ could authorize the creation of horse thief detective associations, and could expel members therefrom (1852 to 1907);¹⁷⁴ could authorize designated members of horse thief detective associations to exercise certain powers of constables (1907 to 1933);¹⁷⁵ could

¹⁶⁶ Acts 1899, ch. 34, secs. 3, 4. Acts 1901, ch. 183, sec. 1. Acts 1936 (Spec. Sess.), ch. 3, sec. 22.

¹⁶⁷ Rev. L. 1824, ch. 56, secs. 1, 2, 5. Rev. L. 1831, ch. 53, secs. 1, 4, 5. Rev. Stat. 1838, ch. 57, secs. 1, 4, 5. Acts 1840-41 (general), ch. 44. Rev. Stat. 1843, ch. 50, secs. 1, 3, 4, 7, 10. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24; pt. 3, ch. 4, sec. 2, p. 387. Acts 1875 (Spec. Sess.), ch. 12. Acts 1881, ch. 69, sec. 11.

¹⁶⁸ Rev. L. 1824, ch. 22, sec. 9. Rev. L. 1831, ch. 54, sec. 14; ch. 90, sec. 4. Rev. Stat. 1843, ch. 13, secs. 80-83. 1 Rev. Stat. 1852, ch. 92.

¹⁶⁹ Rev. L. 1824, ch. 35, sec. 1. Rev. L. 1831, ch. 32, secs. 1, 19. Rev. Stat. 1838, ch. 32, sec. 1. 1 Rev. Stat. 1852, ch. 31, sec. 11. Acts 1855, ch. 66. Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

¹⁷⁰ Rev. L. 1824, ch. 35, secs. 22, 23; ch. 36, sec. 8. Rev. L. 1831, ch. 32, secs. 8, 9, 22, 23; ch. 58, sec. 1. Rev. Stat. 1838, ch. 32, secs. 34, 35. 1 Rev. Stat. 1852, ch. 31, secs. 16-23. Acts 1881 (Spec. Sess.), ch. 47, secs. 83, 84. Acts 1933, ch. 242.

¹⁷¹ Rev. L. 1824, ch. 60, secs. 8, 9; ch. 93, sec. 4. Rev. L. 1831, ch. 85, secs. 1, 2, 4, 7-9. Rev. Stat. 1838, ch. 93, secs. 4, 8, 9. Rev. Stat. 1843, ch. 18, secs. 11, 12, 17. Acts 1851-52, ch. 2, sec. 1. See the essay entitled "County Agent."

¹⁷² Acts 1833-34, ch. 17. Acts 1834-35 (general), ch. 44, sec. 1. Rev. Stat. 1838, ch. 21, secs. 33, 34. Acts 1841-42 (general), ch. 131, sec. 1. Rev. Stat. 1843, ch. 7, sec. 34. Acts 1846-47 (general), ch. 39. 1 Rev. Stat. 1852, ch. 114, sec. 10. Acts 1877 (Spec. Sess.), ch. 29. Acts 1919, ch. 185, sec. 1. Acts 1929, ch. 2, sec. 1. Acts 1935, ch. 184, secs. 1, 2.

¹⁷³ Acts 1935, ch. 273. Acts 1939, ch. 153.

¹⁷⁴ 1 Rev. Stat. 1852, ch. 51, sec. 2. Acts 1865 (Spec. Sess.), ch. 95, sec. 4. Acts 1891, ch. 81, sec. 1. Acts 1907, ch. 144. Acts 1933, ch. 239.

¹⁷⁵ Acts 1907, ch. 144, sec. 8. Acts 1933, ch. 239.

allow rewards for the apprehension of horse thieves (1833 to 1853);¹⁷⁶ made allowances for expenses in pursuing and returning fugitives (1901 to 1909);¹⁷⁷ could authorize the incorporation of cemetery associations (1879 to 1939);¹⁷⁸ assisted in the organization of agricultural societies (1835 to 1843);¹⁷⁹ allowed damages to owners of sheep killed or injured by dogs or wolves (1841 to 1843);¹⁸⁰ directed the distribution of funds derived from the sale of estrays and driftage, on receiving proof of ownership (1826 to 1843);¹⁸¹ directed the liquidation of property donated in the county for the colonization of negroes and mulattoes (1852 to 1865);¹⁸² ordered the county treasurer to distribute the unexpended portion of the 3 percent fund to the trustees of the several townships;¹⁸³ approved privately owned homes for friendless women, to be used as places of detention under court commitments (1867 to 1869);¹⁸⁴ could authorize the construction of private bridges with authority to charge tolls (1826 to 1929);¹⁸⁵ could fix toll-bridge rates (1826 to 1929);¹⁸⁶ granted brokers' licenses (1841 to 1853)¹⁸⁷ and liquor licenses (1826 to 1918);¹⁸⁸ granted tavern licenses

¹⁷⁶ Acts 1832-33, ch. 52. Rev. Stat. 1838, ch. 21 (second act). Rev. Stat. 1843, ch. 7, sec. 24. ¹⁷⁷ Rev. Stat. 1852, ch. 51.

¹⁷⁷ Acts 1901, ch. 104. Acts 1905, ch. 169, sec. 42. Acts 1909, ch. 66, sec. 1.

¹⁷⁸ Acts 1879 (Spec. Sess.), ch. 13. Acts 1939, ch. 142, sec. 29.

¹⁷⁹ Acts 1834-35 (general), ch. 70, sec. 4. Rev. Stat. 1838, ch. 2 (second act), secs. 1, 10. Rev. Stat. 1843, ch. 25.

¹⁸⁰ Acts 1840-41 (general), ch. 61, sec. 5. Rev. Stat. 1843, ch. 59, sec. 4.

¹⁸¹ Rev. L. 1824, ch. 39, sec. 6. Rev. L. 1831, ch. 35, secs. 8, 9. Rev. Stat. 1838, ch. 37, secs. 8, 10. Rev. Stat. 1843, ch. 21, sec. 20.

¹⁸² Rev. Stat. 1852, ch. 18, sec. 4. Acts 1865, ch. 17.

¹⁸³ Acts 1881 (Spec. Sess.), ch. 102, sec. 1.

¹⁸⁴ Acts 1867, ch. 122, secs. 1, 3. Acts 1869 (Spec. Sess.), ch. 32, secs. 1, 15-18.

¹⁸⁵ Rev. L. 1824, ch. 87, sec. 31. Rev. L. 1831, ch. 82, sec. 68. Rev. Stat. 1838, ch. 91, sec. 63. Rev. Stat. 1843, ch. 16, sec. 65. Acts 1848-49 (general), ch. 109, sec. 66. Acts 1855, ch. 5, sec. 8. Acts 1859, ch. 14, secs. 1, 9. Acts 1929, ch. 215, sec. 73.

¹⁸⁶ Rev. L. 1824, ch. 87, sec. 31. Rev. L. 1831, ch. 26, sec. 43. Rev. Stat. 1838, ch. 41, sec. 10; ch. 91, sec. 63. Rev. Stat. 1843, ch. 16, secs. 65, 67. Acts 1859, ch. 14, sec. 9. Acts 1875, ch. 8, sec. 7. Acts 1929, ch. 215, sec. 73.

¹⁸⁷ Acts 1840-41 (general), ch. 5, sec. 6. Acts 1841-42 (general), ch. 91. Rev. Stat. 1843, ch. 12, secs. 165, 175. Acts 1846-47 (general), ch. 42. Rev. Stat. 1852, ch. 65, secs. 1-3. Acts 1857, ch. 43. Acts 1917, ch. 50.

¹⁸⁸ Rev. L. 1824, ch. 86, sec. 37; ch. 107, secs. 1-3, p. 406. Rev. L. 1831, ch. 81, sec. 50; ch. 105, sec. 19. Rev. Stat. 1838, ch. 105, sec. 1. Rev. Stat. 1843, ch. 25, sec. 27; ch. 59, sec. 15.

with privilege to sell liquor (1826 to 1853);¹⁸⁹ could order special elections under local option liquor laws (1908 to 1917);¹⁹⁰ granted licenses to sell foreign and domestic groceries with privilege to sell liquor (1826 to 1853);¹⁹¹ approved all bonds required in connection with licenses granted by the board;¹⁹² and fixed the amount of license fees on various licenses (1826 to 1917).¹⁹³

The board of commissioners has always had the power to establish, construct, and maintain roads,¹⁹⁴ except that from 1879 until 1913 the board of commissioners was an ex officio board of directors for the maintenance of county roads (known as "Board of Turnpike Directors" from 1879 to 1901 and as "Board of Directors" from 1901 to 1913). This board divided the county into three districts, and each director had personal supervision of one district.¹⁹⁵ Since 1913 the surveyor, county highway superintendent (1913 to 1933), and county highway supervisor (1933 to date), acting under the control of the board of commissioners, have had charge of the construction and maintenance of county highways.¹⁹⁶

1 Rev. Stat. 1852, ch. 92, sec. 1(19). Acts 1855, ch. 105, secs. 4, 5; ch. 106, sec. 1. Acts 1858 (Spec. Sess.), ch. 15. Acts 1859, ch. 130. Acts 1861, ch. 72. Acts 1873, ch. 59. Acts 1875 (Spec. Sess.), ch. 13. Acts 1889, ch. 148. Acts 1895, ch. 127. Acts 1897, ch. 167. Acts 1905, ch. 6, sec. 1. Acts 1911, ch. 119, secs. 3-5. Acts 1913, ch. 152. Acts 1915, ch. 10. Acts 1917, ch. 4, secs. 6, 7; ch. 60.

¹⁸⁹ Acts 1820-21, ch. 36, secs. 1-5. Acts 1825, ch. 71, sec. 3. Rev. L. 1831, ch. 81, sec. 50. Rev. Stat. 1838, ch. 105, sec. 1. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92.

¹⁹⁰ Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 1. Acts 1917, ch. 4, sec. 40.

¹⁹¹ Acts 1827-28, ch. 63, secs. 1-3. Rev. L. 1831, ch. 81, sec. 50. Acts 1836-37 (general), ch. 66, sec. 4. Rev. Stat. 1838, ch. 105, sec. 4; ch. 109, sec. 19. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 92.

¹⁹² See the authorities cited in connection with the granting of licenses.

¹⁹³ Rev. L. 1824, ch. 23, sec. 3; ch. 86, sec. 37. Rev. L. 1831, ch. 21, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7; ch. 105, sec. 6. Rev. Stat. 1843, ch. 59, sec. 15. 1 Rev. Stat. 1852, ch. 65, secs. 1, 2. Acts 1857, ch. 43. Acts 1917, ch. 50. See citations in footnotes in connection with the granting of licenses.

¹⁹⁴ See footnote 20 herein.

¹⁹⁵ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1895, ch. 147. Acts 1899, ch. 176, secs. 1, 2. Acts 1901, ch. 202. Acts 1905, ch. 167, sec. 85. Acts 1913, ch. 330, sec. 1.

¹⁹⁶ Acts 1901, ch. 228. Acts 1911, ch. 105. Acts 1913, ch. 40, sec. 1; ch. 330, sec. 1. Acts 1921, ch. 95. Acts 1922 (Spec. Sess.), chs. 32, 34. Acts 1933, ch. 19. Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708. See the essays entitled "Surveyor" and "County Highway Supervisor."

A regular session of the board of commissioners begins on the 1st Monday of each month and continues so long as the necessary business of the session requires.¹⁹⁷ Special sessions are held when called by the auditor, or, in case of death or disqualification, by the clerk of the circuit court or the recorder, respectively.¹⁹⁸ Any two members constitute a quorum to do business. When only two members are present and a division takes place on any question, such question must be continued until the next meeting of the board.¹⁹⁹ The sheriff, in person or by deputy, attends the meetings of the board and executes its orders.²⁰⁰ All meetings of the board are open to the public.²⁰¹ An official seal must be kept and used by the board.²⁰²

The board adopts regulations for the transaction of business; and in the trial of causes it is required to comply, so far as practicable, with the rules for conducting business in the circuit court.²⁰³ Whenever, in the trial of any cause, two or more members of the board are disqualified, the judge of the circuit court appoints special commissioners to act in their places.²⁰⁴ Members of the board of commissioners are privileged from arrest and from obeying any subpoena to testify, during any session of the board and while going to and returning from the same.²⁰⁵

Though appeals may be taken to the circuit court to review all judicial decisions of the board, no appeal lies from

¹⁹⁷ Rev. L. 1824, ch. 15, secs. 4, 10; ch. 16, sec. 5. Rev. L. 1831, ch. 20, sec. 5. Rev. Stat. 1838, ch. 21, sec. 5. Rev. Stat. 1843, ch. 7, sec. 4. 1 Rev. Stat. 1852, ch. 20, sec. 6. Acts 1859, ch. 21. Acts 1863, ch. 28. Acts 1897, ch. 123, sec. 1. Acts 1899; Burns 26-550; Baldwin 5221.

¹⁹⁸ Acts 1844-45 (general), ch. 66. Acts 1863; Burns 26-607 to 26-609; Baldwin 5222, 5224, 5225. Acts 1899; Burns 26-610; Baldwin 5223.

¹⁹⁹ Rev. L. 1824, ch. 15, secs. 8, 12; ch. 16, secs. 1, 7; ch. 23, sec. 2. Rev. L. 1831, ch. 20, sec. 8. Rev. Stat. 1838, ch. 21, sec. 8. Rev. Stat. 1843, ch. 7, secs. 1, 6. 1 Rev. Stat. 1852, Acts 1829; Burns 26-601, 26-618; Baldwin 5215, 5227.

²⁰⁰ Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, sec. 6. Rev. Stat. 1843, ch. 7, secs. 5, 25. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

²⁰¹ Rev. Stat. 1843, ch. 7, sec. 18. 1 Rev. Stat. 1852; Burns 26-623; Baldwin 5239.

²⁰² Rev. L. 1824, ch. 15, sec. 6; ch. 16, sec. 9. Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 9. 1 Rev. Stat. 1852; Burns 26-622; Baldwin 5232.

²⁰³ Rev. Stat. 1843, ch. 7, sec. 8. 1 Rev. Stat. 1852; Burns 26-617; Baldwin 5228.

²⁰⁴ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

²⁰⁵ Rev. L. 1824, ch. 78, sec. 3. Rev. Stat. 1843, ch. 52, sec. 5. 1 Rev. Stat. 1852; Burns 3-401; Baldwin 721.

the action of the board in a purely ministerial or administrative capacity, unless a statute specifically allows it.²⁰⁶ Appeals are specifically provided for in proceedings concerning claims against the county,²⁰⁷ removal of the county seat,²⁰⁸ licensing of public ferries,²⁰⁹ establishment or modification of townships,²¹⁰ and in road matters.²¹¹

The auditor, as clerk of the board, attends its meetings, keeps a record of its proceedings, and preserves in his office all the books and papers touching the business of the county.²¹² Copies of the proceedings of the board, when signed and sealed by the auditor, are sufficient evidence thereof on the trial of any cause in any of the courts of this state.²¹³

²⁰⁶ Rev. L. 1824, ch. 15, sec. 10. Rev. L. 1831, ch. 20, sec. 28; ch. 38, sec. 12. Rev. Stat. 1838, ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. *State ex rel. Starry v. Board of County Comrs.*, 136 Ind. 207, 35 N. E. 1100 (1893); *State ex rel. Sink v. Circuit Court*, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

²⁰⁷ 1 Rev. Stat. 1852, ch. 3, secs. 9, 10. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275.

²⁰⁸ Acts 1879, ch. 15. Acts 1885 (Spec. Sess.); Burns 26-410.

²⁰⁹ 1 Rev. Stat. 1852; Burns 36-2615; Baldwin 7705.

²¹⁰ Acts 1859, 1939; Burns, 1940 suppl., 26-701; Baldwin, 1939 suppl., 16055. *State ex rel. Sink v. Circuit Court*, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

²¹¹ Acts 1848-49 (general), ch. 109, secs. 56, 57. 1 Rev. Stat. 1852, ch. 48, secs. 26, 37. Acts 1859, ch. 112, secs. 7, 8. Acts 1869 (Spec. Sess.), ch. 63, secs. 8-13. Acts 1877, ch. 46, secs. 8-14; ch. 47, sec. 3. Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1889, ch. 85, sec. 12; ch. 192, sec. 3; ch. 234, sec. 16. Acts 1893, ch. 163, sec. 1. Acts 1899, ch. 97, sec. 1; ch. 109, sec. 1. Acts 1899, ch. 176, sec. 1. Acts 1901, ch. 205, sec. 1. Acts 1903, ch. 145, sec. 14; ch. 165, sec. 1. Acts 1905, ch. 167, secs. 56, 123. Acts 1909, ch. 101, sec. 8; ch. 148, sec. 1. Acts 1913, ch. 159, sec. 2. Acts 1919, ch. 112, sec. 9. Acts 1921, ch. 262, secs. 13, 14, 18. Acts 1933, ch. 27, sec. 8.

²¹² Rev. Stat. 1843, ch. 7, secs. 5, 15, 16, 53. Acts 1845-46 (general), ch. 65. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

Docketing claims. Acts 1897; Burns 26-806; Baldwin 5256.

Substitute for auditor. 1 Rev. Stat. 1852; Burns 49-3016; Baldwin 5430.

The clerk of the circuit court served as clerk of the Board of commissioners until the creation of the office of auditor in 1841. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, secs. 6, 15. Rev. Stat. 1838, ch. 21, sec. 6. Acts 1840-41 (general), ch. 2.

²¹³ Acts 1816-17, ch. 15, sec. 9. Acts 1817-18 (general), ch. 41, sec. 9. Rev. L. 1824, ch. 15, sec. 6; ch. 16, sec. 9. Rev. L. 1831, ch. 20, sec. 10. Rev. Stat. 1838, ch. 21, sec. 10. Rev. Stat. 1843, ch. 7, sec. 9. Acts 1859, ch. 59, sec. 1. 1 Rev. Stat. 1852; Burns 26-622; Baldwin 5232.

PROCEEDINGS AND REPORTS

1. [COMMISSIONERS' PAPERS], 1826-. 2,122 f. b., 43 f. d., 4 cartons.

Documents filed in commissioners' court, including claims, bids, contracts, contractors' and retailers' bonds, insurance policies on county property, grand jury, road viewers', field examiners', appraisers', supervisor's and treasurer's reports, petitions, remonstrances, applications for liquor licenses, appointments, certificates of elections, plans and specifications for construction projects, and canceled bonds and coupons, showing dates of document, filing, and action; nature and number of document; names of principals; and action taken. Also contains: Poor Relief Claims, 1827-1930, entry 10; [County Council Documents], 1899-, entry 20; [List of Jurors], 1831-60, entry 221; [Tax Levies], 1837-, entry 283; [Board of Finance Papers], 1907-, entry 284; Trustees' Annual Report, 1899-1932, entry 353; and [Auditor's Miscellaneous Papers], 1828-, entry 373. Arr. chron. by dates of filing. No index. Hdw., 1826-1900 hdw. and typed, 1901-. F. b., 5 x 4 x 10; f. d., 7 x 12 x 24; cartons, 36 x 36 x 24. 1,603 f. b., 4 cartons, 1822-1926, attic stor. rm.; 483 f. b., 43 f. d., 1927-37, aud. rec. rm.; 36 f. b., 1938-, aud. off.

2. COMMISSIONERS' DOCKET, 1822-1910. 24 vols. (A-F, 1-18). Discontinued.

Record of filing of actions in commissioners' court, showing dates of filing and action, number and title of instrument, names of principals, action taken, and file box reference to [Commissioners' Papers], entry 1. Also contains: Claim and Allowance Record, entry 8; Damages and Cost, Commissioners' Court, 1826-89, entry 11; Burial of Soldiers, Sailors and Marines, 1895-1901, 1908-10, entry 12; Court Allowances, Insanity and Miscellaneous Papers, 1826-67, June 1878-35, 1910, entry 331; and Register of Poor Fund Claims, entry 351. Arr. chron. by dates of filing. Indexed alph. by names of principals and titles of instruments. Hdw. 600 pp. 18 x 12 x 3. Attic stor. rm.

3. COMMISSIONERS' RECORD, 1826-. 38 vols. (A-Z, 27-38). Title varies: Board of Justice Record, 1826-Mar. 1831. 2 vols.

Minutes of meetings of board of commissioners, showing date of meeting, names of members present, nature of business discussed, and action taken. Also contains: Bidders' Record,

1826-1934, entry 7; Commissioners' Record, Roads, 1826-1910, entry 13; and Retailers' Record, 1826-73, 1875-1918, entry 18. Arr. chron. by dates of meetings. Indexed alph. by subjects of business; for separate index to roads 1826-80, see entry 16. Hdw., 1826-1932; typed, 1933-. 388 pp. 15 x 11 x 1½. 34 vols., 1826-1922, aud. rec. rm.; 4 vols., 1923-, aud. off.

BOND ISSUES

4. REGISTER OF BONDS, 1908-. 2 vols. (1 vol. unlabeled; 2).

Register of county bond issues, showing dates of issue, payment, maturity, and redemption; name and address of purchaser; amount, number, and purpose of bond; and rate and amount of interest. Arr. chron. by dates of issue. Indexed alph. by titles of bond issues. Hdw. 598 pp. 18 x 18 x 3. 1 vol., 1908-25, aud. rec. rm.; 1 vol., 1926-, aud. off.

5. BOND BOOK, 1893-1919. 23 vols. (1-23).

Redeemed bonds and coupons, showing dates of bond, coupon, and redemption; name of purchaser; and amount, number, and purpose of bond. Arr. chron. by dates of redemption. No index. Hdw. 400 pp. 18 x 12 x 4. Attic stor. rm.

6. BOND BOOK [Proofs of Publication], 1911-23. 1 vol. (4).

Proofs of publication of petitions to sell bonds for county projects, showing dates of publication and petition, names of petitioners and project, and amount and nature of bond. Arr. chron. by dates of publication. Indexed alph. by names of projects. Ptd. 580 pp. 18 x 12 x 3. Aud. rec. rm.

BIDS

7. BIDDERS' RECORD, 1935-. 1 vol. 1826-1934 in Commissioners' Record, entry 3.

Record of bids submitted to board of commissioners, showing dates of publication and opening of bid; names and addresses of publication and bidder; quantity, purpose, and unit price of bid; name of accepted bidder; and volume and page reference to Commissioners' Record, entry 3. Arr. chron. by dates of opening bids. No index. Hdw. 498 pp. 16 x 16 x 2½. Aud. off.

CLAIMS AND ALLOWANCES

8. CLAIM AND ALLOWANCE RECORD, 1911-. 27 vols. (1 vol. unlabeled; 20-45). 1822-1910 in Commissioners' Docket, entry 2.

Record of claims filed and allowances made, showing date, number, nature, and amount of claim; date of filing; amount of allowance; and warrant number. Also contains: Damages and Costs, Commissioners' Court, 1930-, entry 11; Burial of Soldiers, Sailors and Marines, entry 12; Court Allowances, Insanity and Miscellaneous Papers, entry 331; and Register of Poor Fund Claims, 1911-33, entry 351. Arr. chron. by dates of filing. For index, see entry 9. Hdw. 600 pp. 15 x 12 x 3. 12 vols., 1911-23, attic stor. rm.; 13 vols., 1924-Aug. 1935, aud. rec. rm.; 2 vols., Sept. 1935-, aud. off.

9. INDEX TO CLAIM AND ALLOWANCE RECORD, 1911-. 26 vols. (20-45).

Index to Claim and Allowance Record, entry 8, showing name of claimant, and volume and page reference to recording. Arr. alph. by names of claimants. Hdw. 150 pp. 18 x 12 x 1. 11 vols., 1911-23, attic stor. rm.; 15 vols., 1924-, aud. rec. rm.

10. POOR RELIEF CLAIMS, 1931-. 10 f. d., 46 f. b. 1827-1930 in [Commissioners' Papers], entry 1.

Vendors' claims for services rendered and provisions furnished indigent persons, with township purchase order attached, showing dates of claim, purchase order, and payment; names of recipient, vendor, and township; amounts of order and claim; and case, claim, and warrant numbers. Arr. num. by claim nos. No index. Hdw. F. d., 4 x 12 x 24; f. b., 11 x 5 x 14. 4 f. d., 1931-32, attic stor. rm.; 6 f. d., 1933-34, aud. rec. rm.; 46 f. b., 1935-, aud. off.

11. DAMAGES AND COST, COMMISSIONERS' COURT, 1890-1929. 1 vol. 1826-89 in Commissioners' Docket, entry 2; 1930- in Claim and Allowance Record, entry 8.

Record of claims paid for damages and costs for construction and maintenance of roads, showing date of filing; term of court; name of claimant; and amount, number, and purpose of claim. Arr. chron. by court terms. Indexed alph. by names of payees. Hdw. 272 pp. 18 x 12 x 2. Attic stor. rm.

12. BURIAL OF SOLDIERS, SAILORS AND MARINES, 1889-94, 1902-7. 1 vol. 1895-1901, 1908-10 in Commissioners' Docket, entry 2; 1911- in Claim and Allowance Record, entry 8.

Record of expenditures for burial of soldiers, sailors, and

marines, showing dates of discharge, death, and burial; name, age, occupation, and service record of deceased; place of burial; and amount of expenditure. Arr. chron. by dates of deaths. Indexed alph. by names of decedents. Hdw. 450 pp. 16 x 12 x 2½. Aud. rec. rm.

PUBLIC IMPROVEMENTS

(See also entries 315, 316, 439-449, 460-464)

13. COMMISSIONERS' RECORDS, ROADS, 1911-. 10 vols. (A1-A10). 1826-1910 in Commissioners' Record, entry 3. Record of actions and proceedings for construction and maintenance of highways, showing date of action; names of road, petitioners, remonstrators, viewers, engineers, and contractors; transcripts of petitions, remonstrances, viewers' reports, specifications, bids, contracts, and contractors' bonds; estimate of cost; and action taken. Arr. chron. by dates of actions. Indexed alph. by names of roads and petitioners. Hdw. 600 pp. 18 x 12 x 3. Aud. rec. rm.

14. CONSTRUCTION RECORD, 1926-. 1 vol. Record of expenditures for construction of public projects, showing date and nature of expenditure, names of payee and project, number and amount of warrant, itemized list of expenditures, and balance in fund. Also contains: Ditch and Drain Receipts and Expenditures, entry 17. Arr. by names of projects. Indexed alph. by names of projects. Hdw. 200 pp. 16 x 18 x 2. Aud. off.

15. COMMISSIONERS' RECORD, CONVERSION OF TOLL INTO FREE GRAVEL ROADS, 1884-88. 1 vol. Record of proceedings of board of commissioners on petitions filed to change toll roads into free gravel roads, showing dates of petition and meeting, names and addresses of petitioners, and actions taken by board. Arr. chron. by dates of meetings. No index. Hdw. 376 pp. 16 x 12 x 2½. Aud. rec. rm.

16. ROAD INDEX, 1826-80. 2 vols. (1; 1 vol. unlabeled). Index to road records in Commissioners' Record, entry 3, showing date of document; names of principals, road, and township; and volume and page reference to recording. Arr. alph. by names of twps. Hdw. 596 pp. 18 x 12 x 2½. Aud. rec. rm.

17. DITCH AND DRAIN RECEIPTS AND EXPENDITURES, 1893-1920. 1 vol. 1926- in Construction Record, entry 14. Record of expenditures for construction and maintenance of

ditches and drains, showing date and nature of expenditure, names of payee and ditch or drain, number and amount of warrant, itemized list of expenditures, and balance in fund. Arr. chron. by dates of expenditures. Indexed alph. by names of ditches and drains. Hdw. 400 pp. 18 x 12 x 3. Attic stor. rm.

MISCELLANEOUS

18. RETAILERS' RECORD, 1874. 1 vol. (2). Discontinued as county record in 1918; kept by state excise director, 1933-34, and by Alcoholic Beverage Commission of Indiana, 1935-. 1826-73, 1875-1918 in Commissioners' Record, entry 3.

Record of applications, licenses granted and bonds posted to retail alcoholic beverages, showing dates of application, license, and bond; names of applicant and sureties; license number; amount and conditions of bond; and location of business. Arr. chron. by dates of applications. Indexed alph. by names of applicants. Hdw. 428 pp. 18 x 12 x 3. Aud. rec. rm.

19. REGISTER OF INMATES OF COUNTY ASYLUM, 1872-80. 1 vol. Register of persons committed to county asylum, showing dates committed and discharged; and name, address, age, height, color, occupation, nationality, and mental condition of patient. Arr. chron. by dates of commitments. No index. Hdw. 250 pp. 18 x 14 x 3. Attic stor. rm.

II. COUNTY COUNCIL

LEGAL STATUS

The county council has existed in Tippecanoe County ever since 1899 under the mandatory requirements of an act of 1899, commonly referred to as the County Reform Law.¹ The council is composed of seven members. Each councilman is elected for a term of 4 years, and holds his office until his successor has been elected and qualified. The county is divided by the board of commissioners into four councilmanic districts; and one councilman is elected by the voters of each district. Three councilmen at large are elected by the

¹ Acts 1899; Burns 26-501; Baldwin 5365.

voters of the whole county.² Each councilman receives a certificate of election from the clerk of the circuit court and is not commissioned by the Governor.³ Members of the first council were appointed in 1899 by the judge of the circuit court.⁴ The county auditor, in person or by deputy, serves as clerk of the county council.⁵ At an organization meeting held on the 2d Saturday after its election, the council chooses from its members a presiding officer and a presiding officer *pro tem*, who serve for the terms of their respective offices as councilmen.⁶

Each member must have been an inhabitant of the county during 1 year next preceding the date of his election or appointment. A councilman at large must be a qualified voter and resident freeholder of the county; and each of the other members must be a qualified voter and resident freeholder of the district from which he was elected or appointed. No person can hold the office of councilman while holding any other county office or any state, township, or municipal office.⁷ Each councilman must take an oath that he will support the State and Federal Constitutions and that he will faithfully and honestly perform his duties as councilman.⁸

A councilman receives a salary of \$15 per year plus \$10 for each day served at special meetings of the council.⁹ Before 1927 there was no additional compensation for serving at special meetings.¹⁰ From 1899 until 1933 the auditor was entitled to a suitable annual allowance by the county council in an amount not less than \$200 nor more than \$600 (in addition to his regular salary), for his services as clerk of the county council; but since 1933 his annual salary of \$3,440

² Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-502, 26-505; Baldwin 5366, 5369.

³ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096.

⁴ Acts 1899; Burns 26-548.

⁵ Acts 1899; Burns 26-509; Baldwin 5373.

⁶ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

⁷ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6. Acts 1899; Burns 26-504; Baldwin 5368. State *ex rel.* Workman v. Goldthait, 172 Ind. 210, 87 N. E. 133 (1909). *Opinions of the Attorney General of Indiana, 1936*, p. 412.

⁸ Const. 1851, art. 15, sec. 4. Acts 1899; Burns 26-506; Baldwin 5370. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1899, 1927; Burns 26-503; Baldwin 5367.

¹⁰ Acts 1899, ch. 154, sec. 3.

has been compensation for his regular duties and also his duties as clerk of the county council.¹¹

For sufficient legal grounds any councilman may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If any councilman is convicted of a felony the judgment of conviction must declare his office vacant.¹³ The county council has the power to expel any councilman for disability, ineligibility, neglect to perform the duties of his office, or violation of official duties; and no law specifically provides for a review of such expulsion.¹⁴ Any vacancy in the membership of the council is filled through appointment by the remaining members of the council at a special meeting held for that purpose. A person appointed to fill such vacancy holds office until the expiration of the term in which such vacancy occurred and until his successor is elected and qualified.¹⁵

The purpose of the general assembly in creating the county council in 1899 was to place limits and checks on county business and on payments out of the county treasury.¹⁶ Before 1899 the board of commissioners performed the duties now performed by the council.¹⁷

FUNCTIONS AND RECORDS

The county council makes appropriations of money to be paid out of the county treasury, makes county tax levies, fixes the county tax rates, sets a township tax rate to cover

¹¹ Acts 1892; Burns 26-509, 26-550; Baldwin 5373, 5221. Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1930, p. 130.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 3. Acts 1899; Burns 26-504; Baldwin 5368. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-827; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Acts 1899; Burns 26-504, 26-512; Baldwin 5368, 5376.

¹⁵ Const. 1851, art. 15, sec. 3. Acts 1899, 1907; Burns 26-505; Baldwin 5369.

¹⁶ Acts 1899; Burns 26-529; Baldwin 5393. *Snider v. State ex rel. Leap*, 206 Ind. 474, 190 N. E. 178 (1934).

¹⁷ Acts 1816-17, ch. 8, sec. 1; ch. 18, sec. 7. Acts 1817-18 (general), ch. 42, sec. 12; ch. 43, sec. 23. Rev. L. 1824, ch. 86, sec. 10. Rev. L. 1831, ch. 20, sec. 9. Rev. Stat. 1838, ch. 21, sec. 9. Rev. Stat. 1843, ch. 12, sec. 43. Acts 1851-52, ch. 7, sec. 1. 1 Rev. Stat. 1852, ch. 6, sec. 1; ch. 20, secs. 13, 16-18, 21, 22; ch. 81, secs. 29, 35. Acts 1859, ch. 133, sec. 8. Acts 1861, ch. 95. Acts 1863, ch. 16, sec. 1. Acts 1865, ch. 39, secs. 4-7. Acts 1867, ch. 64. Acts 1875, ch. 7, sec. 4. Acts 1881, ch. 63, sec. 27.

cost of assessment of township taxes,¹⁸ authorizes the borrowing of money for the county,¹⁹ authorizes the county to purchase, sell, or convey real estate of the value of \$1,000 or more,²⁰ and fixes the amounts of salaries of deputy officers and other assistants of county officers.²¹ In making appropriations, the council considers estimates of expenditures which are filed by all county officers with the auditor and presented by him to the council with his recommendations and proposed ordinances.²² Such appropriations, tax levies, and tax rates are subject to review by the county board of tax adjustment or the state board of tax commissioners.²³ In mandamus proceedings the courts can compel the county council to make appropriations and tax levies where it is the statutory duty of the council to do so; and this is true though such duty rests on the performance of a condition, if in fact the condition has been performed.²⁴ The authorization by the council of the issuance of bonds or notes in an amount exceeding \$5,000, excepting temporary obligations, is subject to review by the state board of tax commissioners; and no bonds or notes bearing interest greater than 5 percent per annum can be issued without the approval of said board.²⁵

The county council and the board of commissioners, acting together, approve the acceptance of lands given or

¹⁸ Acts 1899, 1931; Burns 26-507, 26-515, 26-519, 26-520; Baldwin 5371, 5379, 5383, 5384. Acts 1899, 1907, 1913, 1937; Burns, 1940 suppl., 26-521; Baldwin, 1937 suppl., 5385. Acts 1899, 1935; Burns, 1940 suppl., 26-522; Baldwin, 1935 suppl., 5386. *Opinions of the Attorney General of Indiana, 1937*, p. 434 (welfare funds).

Special assessments by city against county property. Acts 1917; Burns 48-3330; Baldwin 5571. Acts 1923; Burns 48-3409; Baldwin 14623.

¹⁹ Acts 1899, 1921, 1929; Burns 26-532, 26-540; Baldwin 5396, 5405.

²⁰ Acts 1903; Burns 22-3201; Baldwin 4507. Acts 1899; Burns 26-534; Baldwin 5399.

²¹ Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1899, 1907, 1913, 1937; Burns, 1940 suppl., 26-521; Baldwin, 1937 suppl., 5385.

²³ Acts 1937; Burns, 1940 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331; Baldwin, 1935 suppl., 15735. *O'Rourke v. Board of County Comrs.*, 215 Ind. 195, 18 N. E. (2d) 380 (1939).

²⁴ Acts 1899; Burns 26-528; Baldwin 5392. *State ex rel. Simpson v. Meeker*, 182 Ind. 240, 105 N. E. 906 (1914); *State ex rel. Test v. Steinwedel*, 203 Ind. 457, 180 N. E. 865 (1932); *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

²⁵ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332, 64-1333; Baldwin 15736, 15737. *Citizens Bank v. Burnettsville*, 98 Ind. App. 92, 179 N. E. 724 (1932).

devised to the county for purposes of a public forest;²⁶ hold hearings on petitions for the condemnation of school buildings as unfit for use, and decide for or against such condemnation, subject to appeal to the circuit or superior court;²⁷ determine, on proper petition, the order in which county highway projects shall be established and constructed, in the event two or more petitions for such projects are on file with the auditor at the same time;²⁸ and rebuild courthouses and jails destroyed by fire or windstorm, and issue bonds to defray the expense thereof.²⁹

It is unlawful for any councilman to be interested personally in any contract with the county, or to purchase for less than par, any bond, warrant, claim, or demand against the county.³⁰

The county council holds a regular annual meeting on the 1st Tuesday after the 1st Monday in September of each year. Special meetings may be called by the auditor or a majority of the members of the council.³¹ The sessions are open to the public and may continue until all business is completed.³² A majority of all the members constitutes a quorum to do business, and such majority must concur in the passage of ordinances.³³ A greater vote is required in order to expel a member (two-thirds),³⁴ adopt appropriations for items not included in budget estimates or for amounts greater than those of the items in the budget estimates (three-fourths),³⁵ adopt appropriations at a special meeting (two-thirds),³⁶ and to levy taxes for the maintenance of county roads (unanimous).³⁷ The sheriff, in person or by

²⁶ Acts 1929; Burns 32-105; Baldwin 4879.

²⁷ Acts 1931; Burns 28-3001 to 28-3006; Baldwin 6143 to 6148.

²⁸ Acts 1931; Burns 36-327 to 36-331; Baldwin 8751 to 8755.

²⁹ Acts 1935; Burns, 1940 suppl., 26-2011; Baldwin, 1935 suppl., 5240-1.

³⁰ Acts 1899; Burns 26-513, 26-514; Baldwin 5377, 5378.

³¹ Acts 1899, 1931; Burns 26-507; Baldwin 5371.

³² Acts 1899; Burns 26-508; Baldwin 5372.

³³ Acts 1899; Burns 26-511; Baldwin 5375.

³⁴ Acts 1899; Burns 26-512; Baldwin 5376.

³⁵ Acts 1899; Burns 26-520; Baldwin 5384.

³⁶ Acts 1899, 1907, 1913, 1937; Burns, 1940 suppl., 26-521; Baldwin, 1937 suppl.,

³⁷ Acts 1932 (Spec. Sess.); Burns 36-905; Baldwin 8715.

deputy, attends the sessions of the council and executes its orders.³⁸

The auditor, as ex officio clerk of the council, keeps in his office the files and papers of the council and a record of its proceedings.³⁹ He keeps separate accounts for each specific item of appropriation made by the council.⁴⁰

20. [COUNTY COUNCIL DOCUMENTS], 1899-. In [Commissioners' Papers], entry 1.

Contains:

- i. Budget estimates, 1903-, showing dates of estimate and filing; names of office, official, and fund; and itemized statement of estimated expenditures.
- ii. Certificates of tax levies, showing dates of certificate and filing, name of taxing unit, and amount of levy.
- iii. Notices of meetings of county council, 1933-, showing dates of filing, notice, and meeting; names of councilmen and meeting place; and time and purpose of meeting.
- iv. Ordinances of appropriations for county expenditures, showing dates of ordinance and filing; names of office, official, fund, and councilmen; amounts itemized by office and funds; and total for county.
- v. Ordinances for purchase or sale of real estate, 1933-, showing names of owner, purchaser, appraiser, and taxing unit; date, amount, and purpose of purchase or sale; location and description of property; and appraised value of property.
- vi. Resolutions, showing date of resolution and filing, name of council chairman, nature of resolution, and action taken.

21. COUNTY COUNCIL RECORD, 1899-. 2 vols. (1, 2).

Record of minutes of meetings of county council, showing date and place of meeting, names of members present, nature of business discussed, and action taken. Arr. chron. by dates of meetings. Indexed alph. by subjects of business. Hdw. 500 pp. 18 x 12 x 3. Aud. off.

³⁸ Acts 1899; Burns 26-510; Baldwin 5374.

³⁹ Acts 1899; Burns 26-509; Baldwin 5373. State *ex rel.* Van Der Veer v. Butcher, 205

Ind. 117, 185 N. E. 903 (1935).

⁴⁰ Acts 1899; Burns 26-523; Baldwin 5387.

III. CLERK OF THE CIRCUIT COURT

LEGAL STATUS

The office of clerk of the circuit court has existed in Tippecanoe County ever since 1826 under the mandatory requirements of the Constitution of 1816 and the Constitution of 1851. The clerk of the circuit court (commonly referred to as "county clerk") is elected for a 4-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12-year period.⁴

The clerk must be an elector of the county at the time of his election, must have been an inhabitant thereof during the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office;⁶ must not practice law;⁷ must post bond in an amount fixed by the board of commissioners, to be approved by that board and filed with the recorder;⁸ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁹

Under the Constitution of 1816 the clerk was elected for a 7-year term and could hold the office of recorder.¹⁰

¹ Const. 1816, art. 5, sec. 8. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (special), ch. 3, secs. 1, 3. Rev. L. 1824, ch. 36, secs. 1, 3. Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act). 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State*, 27 Ind. 491 (1867).

⁸ Acts 1816-17, ch. 2, sec. 4. Rev. L. 1824, ch. 24, sec. 3. Rev. Stat. 1838, ch. 15, sec. 1; ch. 17, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-106, 49-120; Baldwin 13066, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852; Burns 49-2701; Baldwin 1427. Acts 1875; Burns 49-2703; 49-2704; Baldwin 1430, 1431.

⁹ Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 2, sec. 4. Acts 1817-18 (special), ch. 3, sec. 3. Rev. L. 1824, ch. 24, sec. 3. Rev. L. 1831, ch. 15, sec. 5. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-104; Baldwin 13054, 13057.

¹⁰ Const., 1816, art. 5, sec. 8; art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

The clerk receives a regular salary of \$3,120 per year.¹¹ He receives \$200 for his services rendered at each general election, primary election, or special election.¹² For each registration blank or transfer of registration which he fills out and executes, he receives a sum fixed by the board of commissioners, not exceeding 4 cents; and in addition thereto receives reasonable compensation (fixed by the board of commissioners) for additional services rendered by him as registration officer.¹³ He is not permitted to retain, as compensation for himself, any fees collected by him, except to the extent expressly authorized by statute in the following cases: Five cents for each mile necessarily traveled in going from the clerk's office to the Governor's office, to receive state ballots, and in returning to the clerk's office; \$5 for his duties in connection with the admission or discharge of any person at any hospital for the insane, the Fort Wayne State School, the Muscatatuck Colony, the Indiana Village for Epileptics, or the James Whitcomb Riley Hospital for Children; fees for services in connection with warrants issued by the state department of treasury for the collection of gross income taxes; fees for the issuance of fish and game licenses; fees for preparing transcripts for change of venue from his county; and all fees for change of venue to his county, except for preparation of transcripts.¹⁴

For sufficient legal grounds the clerk of the circuit court may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹⁵ If the clerk is convicted of a felony the judgment of conviction must declare his office vacant.¹⁶

Any vacancy in the office of clerk of the circuit court

¹¹ Acts 1871, ch. 17, sec. 24. Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Acts 1935; Burns, 1940 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

¹³ Acts 1933, 1935; Burns, 1940 suppl., 29-329; Baldwin, 1935 suppl., 7327.

¹⁴ Acts 1841-42 (general), ch. 119, sec. 1. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1001, 49-1005; Baldwin 7531, 7535. Acts 1933, 1937; Burns, 1940 suppl., 49-1007; Baldwin, 1937 suppl., 7537. Acts 1927; Burns 49-1301 to 49-1305; Baldwin 7561 to 7565. Acts 1933, 1937; Burns, 1940 suppl., 64-2613 (a); Baldwin, 1937 suppl., 15993 (a). *Opinions of the Attorney General of Indiana*, 1938, p. 303; 1939, p. 258.

¹⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a clerk is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁷

The clerk may appoint deputies and assistants under authority from the board of commissioners. Two deputies may be appointed without such authorization. The county council fixes their salaries, which must be not less than \$75 nor more than \$200 per month.¹⁸ The clerk may require any deputy to give bond.¹⁹ Each deputy must take the oath required of the clerk, may perform all the official duties of the clerk, and is subject to the same regulations and penalties.²⁰ The clerk may remove such deputies and assistants at any time, and is responsible for their official acts.²¹

FUNCTIONS AND RECORDS

The clerk of the circuit court files and keeps a record of official bonds and oaths of certain county and township officers. He approves some of these bonds and administers some of these oaths.²² He approves and files the official

¹⁷ Const. 1851, art. 6, sec. 9. Acts 1817-18 (general), ch. 17, secs. 1, 8. Rev. L. 1824, ch. 10, sec. 4; ch. 36, sec. 1. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1869). *Opinions of the Attorney General of Indiana, 1936*, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹⁸ Acts 1871, ch. 17, sec. 25. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁹ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

²⁰ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

²¹ Rev. L. 1824, ch. 10, sec. 2. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1816-17, ch. 2, sec. 3; ch. 11, sec. 4; ch. 13, secs. 3, 4; ch. 19, sec. 1; ch. 39, sec. 1. Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3; ch. 72, sec. 1. Acts 1817-18 (special), ch. 3, sec. 3. Acts 1818-19, ch. 2, sec. 1. Rev. L. 1824, ch. 13, sec. 2; ch. 24, sec. 3; ch. 73, sec. 31. Rev. L. 1831, ch. 15, sec. 7; ch. 20, sec. 23. Acts 1833-34, ch. 16, sec. 1. Rev. Stat. 1843, ch. 4, secs. 84, 86, 89; ch. 10, sec. 2. 2 Rev. Stat. 1852, Acts 1861; Burns 5-118; Baldwin 1347. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-109; Baldwin 13064. Acts 1851-52; Burns 49-123; Baldwin

bonds of notaries public, and he administers and files their official oaths.²³ Bonds of collection agencies are filed by the clerk after being approved by the judge of the circuit court. The clerk's receipt for such bond must accompany any application to the secretary of state for a license to operate a collection agency.²⁴ Formerly he kept a general index to various bonds approved or filed by him.

The clerk issues licenses for marriages. He records these licenses, the applications therefor, and certificates of marriage; and he makes monthly reports to the county health officer concerning marriages.²⁵

The clerk issues licenses for physicians, surgeons,²⁶ midwives,²⁷ osteopaths,²⁸ chiropractors, drugless healers,²⁹

13093. Acts 1857; Burns 49-124; Baldwin 13077. Acts 1857; Burns 49-125; Baldwin 16118. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. Acts 1889; Burns 49-3003; Baldwin 5417. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. Acts 1919, 1921; Burns 64-1001, 64-1101; Baldwin 15666, 15696. Acts 1915; Burns 65-103; Baldwin 16061.

²³ 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

²⁴ Acts 1937; Burns, 1940 suppl., 10-5001, 10-5002; Baldwin, 1937 suppl., 2468-5, 2468-6.

²⁵ Acts 1817-18 (general), ch. 34, secs. 3, 4, 6, 7. Rev. Stat. 1838, ch. 68, secs. 3, 6. Rev. Stat. 1843, ch. 35, secs. 8, 9, 12. Acts 1881, ch. 19, sec. 11. Acts 1891, ch. 15, sec. 11. Acts 1907, 1913; Burns 35-115; Baldwin 8398. 1 Rev. Stat. 1852, Acts 1939; Burns, 1940 suppl., 44-201; Baldwin, 1939 suppl., 5622. 1 Rev. Stat. 1852; Burns 44-203; Baldwin 5624. Acts 1905, 1917; Burns 44-205; Baldwin 5625. Acts 1939; Burns, 1940 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Before March 1, 1940 (the effective date of the 1939 law) a marriage license could be issued only in "the county in which the female resides." In 1938 the supreme court held that an injunction could be granted to prevent the clerk from violating this law. *Sweigart v. State*, 213 Ind. 157, 12 N. E. (2d) 134 (1938).

The 1939 law provides that the license may be issued in "the county in which application for such license is made."

The 1939 law also provides that each applicant for a license must present a medical certificate showing that the applicant is not infected with communicable syphilis, but this provision may be waived by the judge of the circuit court "because of emergency or other causes shown by affidavit or other proof." Acts 1939; Burns, 1940 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

Common law marriage. *Young v. General Baking Co.*, 104 Ind. App. 658, 12 N. E. (2d) 1016 (1938).

Ratification of void ceremonial marriage by living together after removal of disability of party. *Eddington v. Eddington*, 213 Ind. 347, 12 N. E. (2d) 758 (1938).

²⁶ Acts 1881, ch. 19, secs. 10, 11. Acts 1885 (Spec. Sess.), ch. 77, sec. 2 (repealed by Acts 1897, ch. 169, sec. 10). Acts 1897; Burns 63-1303; Baldwin 10705.

²⁷ Acts 1897; Burns 63-1309; Baldwin 10709.

²⁸ Acts 1901; Burns 63-1316; Baldwin 10716.

²⁹ Acts 1927; Burns 63-1312; Baldwin 10713.

dentist,³⁰ optometrists,³¹ hunting, trapping, fishing,³² poultry dealers,³³ junk dealers,³⁴ and for carrying pistols.³⁵ Formerly he issued licenses for veterinarians,³⁶ brokers,³⁷ stallions,³⁸ petty money lenders,³⁹ and sale of liquor.⁴⁰

The clerk registers certificates of trained nurses.⁴¹ He records timber brands,⁴² assumed business names,⁴³ trademarks and trade names used on bottles and other containers,⁴⁴ and certificates of patents granted by the United States Patent Office.⁴⁵ Formerly he kept a negro register,⁴⁶ a register

³⁰ Acts 1899, ch. 211, secs. 5, 7-11. Acts 1913, 1931, 1935; Burns, 1940 suppl., 63-504; Baldwin, 1935 suppl., 5589. Acts 1913, 1931; Burns 63-506, 63-507; Baldwin 5591, 5592.

³¹ Acts 1907; Burns 63-1009; Baldwin 13180. Acts 1907, 1935; Burns, 1940 suppl., 63-1010, 63-1011; Baldwin, 1935 suppl., 13181, 13182.

³² Acts 1901, ch. 203, sec. 13. Acts 1907, ch. 216, sec. 9. Acts 1911, ch. 286, secs. 1, 2. Acts 1927, 1933; Burns 11-302, 11-310; Baldwin 8302, 8309. Acts 1937; Burns, 1940 suppl., 11-1403; Baldwin, 1937 suppl., 8229-3.

The cited sections of the acts of 1901, 1911, 1927, and 1933 were repealed by Acts 1937, ch. 21, sec. 161.

No fee for fishing licenses issued to resident females. *Opinions of the Attorney General of Indiana, 1939*, p. 160.

³³ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-802; Baldwin 10486.

³⁴ Acts 1905; Burns 42-703; Baldwin 10462.

³⁵ The law authorizes the judge of the circuit court or superior court to issue these licenses and does not mention the clerk. In issuing a license the clerk acts for the judge after the judge has approved a written application therefor. One copy of the license must be mailed to the superintendent of state police and another copy must be preserved for 6 years "by the authority issuing said license." The term of the license cannot exceed 1 year. Acts 1935, 1937; Burns, 1940 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

Former laws (repealed in 1935) authorized the clerk to issue such licenses. Acts 1925, ch. 207, sec. 7. Acts 1929, ch. 98, sec. 1. Acts 1935, ch. 63, sec. 21.

³⁶ Acts 1901, ch. 189, sec. 7 (repealed by Acts 1905, ch. 98, sec. 17).

³⁷ Acts 1840-41 (general), ch. 5, sec. 18.

³⁸ Acts 1889, ch. 116, sec. 1 (superseded by Acts 1913, ch. 28, creating the stallion enrollment board).

³⁹ Acts 1913, ch. 167, secs. 1-4 (repealed by Acts 1917, ch. 125, sec. 6).

⁴⁰ Acts 1917, ch. 4, secs. 6, 12.

⁴¹ Acts 1905, 1913, 1931; Burns 63-903; Baldwin 13036.

⁴² Acts 1901; Burns 51-338; Baldwin 13265.

⁴³ Acts 1909; Burns 50-201, 50-202; Baldwin 13210, 13211.

⁴⁴ Acts 1897, ch. 192, sec. 1. Acts 1917, 1931; Burns 66-101; Baldwin 16179.

⁴⁵ Acts 1869 (Spec. Sess.), 1899; Burns 51-401; Baldwin 2772.

⁴⁶ 1 Rev. Stat. 1852, ch. 74 sec. 3 (repealed by Acts 1867, ch. 128, sec. 1).

of certificates of agents of foreign insurance companies,⁴⁷ a roll of the attorneys of the county,⁴⁸ lists of shareholders of all banks doing business in the county,⁴⁹ and he recorded limited partnerships.⁵⁰

The clerk keeps a register of estrays and articles a-drift;⁵¹ records appointments of railroad agents for service of process;⁵² records the commissions, oaths, and terminations of authority of railroad policemen;⁵³ administers oaths;⁵⁴ takes acknowledgments of written instruments;⁵⁵ and distributes session laws enacted by the general assembly.⁵⁶ Formerly the clerk filed public contracts for support of paupers;⁵⁷ filed enumerations of soldiers and sailors;⁵⁸ kept standards of weights and measures;⁵⁹ kept plats showing changes in routes of roads and canals;⁶⁰ and performed the duties of the office of school commissioner if there was no school commissioner.⁶¹

The clerk files petitions and remonstrances concerning the establishment of a county public library and notifies the judge of the circuit court, the county superintendent of

⁴⁷ Acts 1865 (Spec. Sess.), ch. 15, sec. 1. Acts 1877, ch. 43, sec. 1. Acts 1899, ch. 245, sec. 1. Acts 1901, ch. 180, sec. 1. Acts 1903, ch. 66, sec. 1. All of these laws were repealed by Acts 1935, ch. 162, sec. 276.

⁴⁸ Rev. Stat. 1843, ch. 38, sec. 93.

⁴⁹ 1 Rev. Stat. 1852, ch. 10, sec. 30.

⁵⁰ Rev. Stat. 1838, ch. 78, secs. 5-7.

⁵¹ Acts 1807, ch. 20, secs. 1-3. Acts 1817-18 (general), ch. 68, secs. 2, 3. Rev. L. 1824, ch. 39, sec. 2. 1 Rev. Stat. 1852; Burns 51-306, 51-315; Baldwin 13233, 13243.

⁵² Acts 1877 (Spec. Sess.); Burns 55-3301 to 55-3303; Baldwin 14329 to 14331.

⁵³ Acts 1927; Burns 55-3402, 55-3408; Baldwin 14648, 14654.

⁵⁴ Acts 1817-18 (general), ch. 29, sec. 2; ch. 42, sec. 3. Acts 1818-19, ch. 17, sec. 1. Rev. L. 1824, ch. 10, sec. 2; ch. 73, sec. 31. 2 Rev. Stat. 1852; Burns 49-2708; Baldwin 1435.

⁵⁵ Acts 1817-18 (general), ch. 28, sec. 12. Rev. L. 1824, ch. 82, sec. 12. Rev. L. 1831, ch. 41, sec. 10. 1 Rev. Stat. 1852; Acts 1859; Burns 56-123; Baldwin 14674.

⁵⁶ Acts 1933, 1935; Burns, 1940 suppl., 49-1612, 49-1612a, 49-1614; Baldwin, 1935 suppl., 14956, 14956-1, 14958. Acts 1897; Burns 49-1613; Baldwin 14957.

⁵⁷ Rev. L. 1824, ch. 72, sec. 3. Rev. L. 1831, ch. 69, sec. 2.

⁵⁸ Acts 1885 (Spec. Sess.), ch. 97, secs. 1, 3 (both repealed by Acts 1895, ch. 100, sec. 1). Acts 1913, ch. 46, secs. 1, 2 (both repealed by Acts 1923, ch. 4, sec. 1).

⁵⁹ Acts 1817-18 (general), ch. 67, secs. 1, 2. Rev. L. 1824, ch. 116. Rev. L. 1831, ch. 110.

⁶⁰ Rev. Stat. 1838, ch. 17, sec. 56.

⁶¹ Acts 1836-37 (general), ch. 31, sec. 1.

schools, and the board of commissioners of the filing of such petition and any tax levy made for such library.⁶²

All funds received by the clerk must be deposited in a depository designated by the board of finance, and may be withdrawn by checks signed by the clerk or his authorized deputy.⁶³ He reports to the county auditor and treasurer all fees and fines collected by him.⁶⁴ All moneys remaining in the office of the clerk for 10 years without being demanded by the parties entitled thereto are paid to the attorney general.⁶⁵

The clerk keeps a cash book,⁶⁶ a daily balance record,⁶⁷ and a register of fees received by him;⁶⁸ and must preserve in his office all records and writings appertaining to his official duties.⁶⁹ On request and payment of a fee therefor, the clerk furnishes certified copies of records and papers on file in his office.⁷⁰

The state board of accounts (created in 1909) has prescribed forms for the following books to be used by the clerk: Cashbook of receipts and disbursements; daily balance record; register of fees and funds held in trust; and record of poultry dealers' licenses and applications therefor. Forms of printed blanks have also been prescribed.⁷¹

⁶² Acts 1917, 1921, 1927, 1939; Burns, 1940 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁶³ Acts 1937; Burns, 1940 suppl., 61-673, 61-674; Baldwin, 1937 suppl., 1438-1, 1438-2.

Loss of funds through failure of depository. State *ex rel.* Jackson v. Middleton, 215 Ind. 219, 19 N. E. (2d) 470 (1939).

⁶⁴ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1828-29, ch. 24, secs. 1, 2. Rev. L. 1831, ch. 15, sec. 15. Acts 1841-42 (general), ch. 45, sec. 3. Rev. Stat. 1843, ch. 13, sec. 80; ch. 33, sec. 64. Acts 1871, ch. 17, secs. 20, 27. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437.

⁶⁵ Acts 1933; Burns 49-2717, 49-2718; Baldwin 15177, 15178.

⁶⁶ Acts 1871, ch. 17, sec. 19. Acts 1879 (Spec. Sess.); Burns 49-2722; Baldwin 1442.

⁶⁷ Acts 1937; Burns, 1940 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

⁶⁸ Acts 1871, ch. 17, sec. 19. Acts 1909, ch. 10, sec. 1. Acts 1927; Burns 49-1301; Baldwin 7561. Acts 1879 (Spec. Sess.); Burns 49-2723; Baldwin 1443.

Probate fee book. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014.

⁶⁹ Acts 1817-18 (general), ch. 13, sec. 2; ch. 66, sec. 4. Rev. L. 1824, ch. 10, sec. 1. Acts 1829-30, ch. 10, sec. 1. Rev. L. 1831, ch. 15, sec. 1. Rev. Stat. 1843, ch. 38, sec. 50. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

⁷⁰ Acts 1817-18 (general), ch. 13, sec. 18. 1 Rev. Stat. 1852; Burns 44-303; Baldwin 5634. 2 Rev. Stat. 1852; Burns 49-2707; Baldwin 1434.

⁷¹ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennen, state examiner, on May 18, 1939, by W. Davis Hamilton.

Other functions, duties, and records of the clerk are discussed in the essays entitled "Board of Primary Election Commissioners," "Circuit Court," "County Board of Canvasers," "County Board of Election Commissioners," "County School Fund Board," "Registration Officer," and "Superior Court." Former functions, duties, and records of the clerk are discussed in the essays entitled "Auditor" (transferred to auditor in 1841), "Court of Common Pleas (1848-52)," "Court of Common Pleas (1853-73)," "Criminal Circuit Court (1867-75)," and "Probate Court (1829-53)."

RECEIPTS AND DISBURSEMENTS

22. CASH BOOK OF RECEIPTS AND DISBURSEMENTS, 1866-83, 1890, Nov. 1898-1911, 1926-. 16 vols. (1 vol. unlabeled; 2, 3; 1 vol. unlabeled; 2; 2 vols. unlabeled; 4, 5; 7 vols. unlabeled). Title varies: Cash Book, 1866-83, 1890, Nov. 1898-1911, 9 vols. Daily record of receipts and disbursements, showing date, nature, and amounts of receipts and disbursements; names of payer, payee, and fund; and receipt, check, and cause numbers. This is a combination of two records intercurrently kept separately: Cash Book, [Receipts], entry 23; and Cash Book, Disbursements, entry 24. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 321 pp. 18 x 21 x 2. 11 vols., 1866-83, 1890, Nov. 1898-1911, 1926-30, attic stor. rm.; 4 vols., 1931-36, clk. rec. rm.; 1 vol., 1937-, clk. off.
23. CASH BOOK [RECEIPTS], 1912-25. 3 vols. (1-3). 1866-83, 1890, Nov. 1898-1911, 1926- in Cash Book of Receipts and Disbursements, entry 22. Daily record of receipts, showing date, nature, and amount of receipt; receipt number; and name of payer. Arr. chron. by dates of receipts. No index. Hdw. 300 pp. 16 x 12 x 2. Attic stor. rm.
24. CASH BOOK, DISBURSEMENT, 1912-25. 2 vols. 1866-83, 1890, Nov. 1898-1911, 1926- in Cash Book of Receipts and Disbursements, entry 22. Daily record of disbursements, showing date, nature, and amount of disbursements; name of payee; and check number. Arr. chron. by dates of checks. No index. Hdw. 350 pp. 18 x 21 x 3. Attic stor. rm.
25. FEE AND CASH BOOK, MISCELLANEOUS, 1871-. 11 vols. (1 vol. unlabeled; 1-9, 39). Title varies: Cash Book, 1871-78, 2 vols.; Register of Fees, 1879-1910, 8 vols.

Record of fees and fines collected, showing date of collection, names of plaintiff and defendant, nature of fee, and amounts of fees and fines. Arr. chron. by dates of collections. No index. Hdw. 500 pp. 16 x 12 x 2. 2 vols., 1871-78, attic stor. rm.; 8 vols., 1879-1910, clk. rec. rm.; 1 vol., 1911-, clk. off.

26. REGISTER OF FEES AND FUNDS HELD IN TRUST, 1886-. 10 vols. Title varies: Trust Fund Register, 1886-1914, 4 vols.

Record of receipts and disbursements of fees and funds held in trust, showing dates, nature, and amounts of receipts and disbursements; cause number; and names of plaintiff, defendant, payer, and payee. Arr. chron. by dates of receipts and disbursements. Indexed alph. by names of payees. Hdw. 400 pp. 18 x 12 x 3. 9 vols., 1886-1931, clk. rec. rm.; 1 vol., 1932-, clk. off.

BONDS

(See also entries 371, 372).

27. CANCELLED CHECKS, 1938-. 1 vol.

Stubs of checks drawn on depositories, showing date, number, amount, and purpose of check; and names of payee and depository. Arr. num. by check nos. No index. Hdw. 100 pp. 18 x 12 x 2. Clk. off.

28. [INDEX TO OFFICAL BONDS], 1826-1918. 1 vol.

Index to Official Bonds, 1902-1918, entry 29; and official bonds in [Clerk's Miscellaneous Papers], 1826-1901, entry 58, showing date and kind of bond, name of official, and file box reference. Arr. alph. by names of officials. Hdw. 580 pp. 18 x 12 x 3. Clk. rec. rm.

29. OFFICIAL BONDS, 1902-. 4 f. b. (81, A228; 2 f. b. unlabeled). Official bonds, 1826-1901 in [Clerk's Miscellaneous Papers], entry 58.

Original bonds filed, including:

- i. Collection agency bonds, showing date, number, amount, and conditions of bond; and names of agency and sureties.
- ii. Official bonds, including auditor, treasurer, recorder, sheriff, coroner, prosecuting attorney, justice of peace, and constables, 1902-, and county director of public welfare, 1936-, showing information as in entry 30-v.

Also contains: Notary Bonds, 1902-31, entry 32. Arr. chron. by dates of bonds. For index, 1902-18, see entry 28; 1919-, see entry 59. Typed. 2 f. b., 5 x 4 x 10; 2 f. b., 10 x 5 x 14. 2 f. b., 1902-24, clk. rec. rm.; 2 f. b., 1925-, clk. off.

30. MISCELLANEOUS RECORD, 1889-. 3 vols. (1-3). 1883-88 in Drainage Record, entry 233; official bonds 1910-28 in Notarial Bonds, entry 33.

Contains:

- i. Appointments of railroad police, showing date and term of appointment, name of appointee, and extent of authority granted.
- ii. Assignments and satisfactions of judgments, showing date of assignment or satisfaction, amount of judgment, and names of assignor and assignee.
- iii. Certificates of election of trustees of firms and corporations, showing date of certificate, and names of trustee and firm or corporation.
- iv. Director of county department of public welfare bonds, 1936-, showing information as paragraph v.
- v. Official bonds, including auditor, treasurer, recorder, sheriff, coroner, prosecuting attorney, justice of peace and constable, 1889-1909, 1929-, showing date, amount, and conditions of bond; and names of official and sureties.

For original bonds see entry 29-ii.

- vi. Powers of attorney, showing dates of instrument and filing, names of principal and agent, and limitations of power.

Also contains: Notarial Bonds, 1889-1911, entry 33. Arr. chron. by dates of instruments. Indexed alph. by names of principals; for separate index to official bonds, 1889-1909, see entry 31. Hdw. and typed. 576 pp. 18 x 12 x 3. 2 vols., 1889-1927, clk. rec. rm.: 1 vol., 1928-, clk. off.

31. OFFICIAL BOND INDEX RECORD, 1889-1915. 2 vols. (2; 1 vol. unlabeled).

Index to official bonds in Miscellaneous Record, 1889-1909, entry 30, showing date and amount of bond, names of official and sureties, and volume and page reference to recording. Also contains: Register of Official Bonds, 1910-15, entry 36. Arr. alph. by names of officials, 1889-1909; arr. chron. by dates of bonds, 1910-15. Indexed alph. by names of officials. Hdw. 580 pp. 18 x 12 x 3. Clk. rec. rm.

32. NOTARY BONDS, 1932-. 2 f. b. (9, 10). 1852-1901 in [Clerk's Miscellaneous Papers], entry 53; 1902-31 in Official Bonds, entry 29.

Original notaries bonds, showing information as in entry 33-i. Arr. chron. by dates of bonds. For index, see entry 59. Hdw. 10 x 5 x 14. Clk. rec. rm.

33. NOTARIAL BONDS, 1910-. 4 vols. (1-3; 1 vol. unlabeled). 1883-88 in Drainage Record, entry 233; 1889-1911 in Miscellaneous Record, entry 30.

Contains:

- i. Record of bonds posted by notaries public, 1912-, showing date, amount, and conditions of bond; and names of notary and sureties.

For original bonds, see entry 32.

- ii. Official bonds, showing information as in entry 30-v.

Arr. chron. by dates of bonds. Indexed alph. by names of officials and notaries. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

34. JUSTICE OF THE PEACE, CONSTABLE, 1906-. 1 vol. 1852-1900 in Register of Official Bonds, entry 36.

Register of justices of peace and constables, showing dates of election, commission, and expiration of term; and names of official and township. Arr. chron. by dates of elections. Indexed alph. by names of officials. Hdw. 50 pp. 14 x 9 x 1/4. Clk. off

35. REGISTER OF NOTARIES PUBLIC, 1909-. 1 vol. 1852-1900 in Register of Official Bonds, entry 36.

Register of notaries public, showing dates of commission and expiration, and name and address of notary. Arr. chron. by dates of commissions. Indexed alph. by names of notaries. Hdw. 150 pp. 16 x 12 x 2. Clk. rec. rm.

36. REGISTER OF OFFICIAL BONDS, 1852-1900. 4 vols. (2; 1 vol. unlabeled; 4, 5). 1910-15 in Official Bond Index Record, entry 31.

Register of bonded officials, including auditor, treasurer, recorder, sheriff, coroner, prosecuting attorney and surveyor, showing date of appointment or election, date qualified, expiration of term, names of official and sureties, and date and amount of bond. Also contains: Justice of the Peace, Constable, entry 34; and Register of Notaries Public, entry 35. Arr. chron. by dates of bonds. Indexed alph. by names of officials. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

LICENSES AND CERTIFICATES

MARRIAGE (see also entries 422)

37. INDEX, MARRIAGE LICENSES, 1897-1901. 1 vol.

Index to Marriage Applications, Returns, Licenses, entry 39, showing date and kind of document, names of bride and groom, and file box reference. Arr. alph. by names of brides and grooms. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

38. INDEX, MARRIAGE RECORD, 1860-96. 1 vol.

Index to Marriage Applications, Returns, Licenses, entry 39 and Marriage Record, entry 40, showing date and kind of document, names of bride and groom, volume and page reference to recording, and file box reference. Arr. alph. by names of brides and grooms. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

39. MARRIAGE APPLICATIONS, RETURNS, LICENSES, 1826-. 134 f. b. (numbered irregularly).

Original marriage documents, including:

- i. Affidavits, showing information as in entry 40-i.
- ii. Applications, June 1905-, showing information as in entry 40-ii.
- iii. Certificates of marriage, showing information as in entry 40-iii.

Arr. chron. by dates of filing. For index, 1826-59, 1902-, see entry 59; 1860-96, see entry 38; 1897-1901, see entry 37. Hdw. 5 x 4 x 10. Clk. rec. rm.

40. MARRIAGE RECORD, 1826-. 53 vols. (1, 2, 2½, 3-52).

Record of marriage documents, including:

- i. Affidavits relative to validity of statements by applicants for marriage licenses, 1871-. showing date of affidavit, names of applicants, and name and address of affiant.
For original affidavits, see entry 39-i.
- ii. Applications for marriage licenses, May 1905-, showing names, color, dates and places of birth, addresses, occupations, marital status, and physical and mental history of bride and groom; and name, color, places of birth, occupations, and residences of parents.

For original applications, see entry 39-ii.

- iii. Certificates of marriage, showing date of certificate; and names of bride, groom, and officiating officer.

For original certificates, see entry 39-iii.

iv. Licenses issued, showing date of license and names of bride and groom.

Arr. chron. by dates of licenses. No index, 1826-59; indexed alph. by names of brides and grooms, 1897-; for index, 1860-96, see entry 38. Hdw. 350 pp. 18 x 12 x 3. 51 vols., 1826-July 1937, clk. rec. rm.; 2 vols., Aug. 1937-, clk. off.

PROFESSIONAL

41. PHYSICIANS' LICENSES, 1885-. 3 vols. (1, 1, 2).

Record of certificates issued by state board of medical registration and examination and licenses issued by clerk to practice medicine and surgery in state, showing dates of certificate, diploma, license, and recording; name and date and place of birth of physician; name of college attended; and number and nature of certificate. Also contains: Drugless Physicians' Record, 1897-1929, entry 42. Arr. chron. by dates of licenses. Indexed alph. by names of physicians. Hdw. 421 pp. 17 x 12 x 2½. 1 vol., 1885-June 1897, clk. rec. rm.; 2 vols., July 1897-, clk. off.

For original certificates, see entry 58-xiv.

42. DRUGLESS PHYSICIANS' RECORD, 1930-. 1 vol. 1897-1929 in Physicians' Licenses, entry 41.

Record of certificates issued by state board of medical registration and examination and licenses issued by clerk to practice in state, showing dates of certificate and license; name, age, place of birth, and residence of physician; name of college attended; and number and nature of certificate. Arr. num. by certificate nos. Indexed alph. by names of physicians. Hdw. 318 pp. 16 x 12 x 2½. Clk. off.

For original certificates, see entry 58-ix.

43. RECORD OF DENTISTS' CERTIFICATES, 1899-. 1 vol.

Record of certificates issued by state board of dental examiners and licenses issued by clerk to practice in county, showing dates of certificate and license; name, age, birthplace, and address of dentist; and name of college attended. Arr. chron. by dates of licenses. Indexed alph. by names of dentists. Hdw. 400 pp. 16 x 11 x 2. Clk. off.

For original certificates, see entry 58-viii.

44. [NURSES' CERTIFICATES], 1905-. 1 f. b. (B12).

Certificates issued by state board of examination and registration of nurses and presented to clerk to obtain licenses to practice in county, showing dates of certificate and filing, name and address of nurse, and certificate number. Arr. chron. by dates of filing. For index, see entry 59. Hdw. 11 x 5 x 14. Clk. rec. rm.

45. REGISTER OF TRAINED NURSES, 1905-. 1 vol.

Register of graduate nurses licensed to practice in county, showing dates of registration and license, and name and address of nurse. Arr. chron. by dates of registrations. Indexed alph. by names of nurses. Hdw. 110 pp. 14 x 9 x 1. Clk. off.

46. REGISTER OF OPTICIANS, 1907-. 1 vol. (1).

Record of certificates issued by state board of registration and examination in optometry and licenses issued by clerk to practice in county, showing dates and numbers of certificate and license, name and address of optometrist, and name of college attended. Arr. chron. by dates of licenses. Indexed alph. by names of optometrists. Hdw. 224 pp. 14 x 9 x 1. Clk. off.

For original certificates, see entry 58-xii.

47. VETERINARY LICENSE RECORD, 1901-9. 1 vol. Discontinued.

Record of licenses issued to practice veterinary medicine and surgery in state, showing date of license; and name, age, and address of veterinarian. Arr. chron. by dates of licenses. Indexed alph. by names of veterinarians. Hdw. 160 pp. 18 x 12 x ½. Clk. rec. rm.

COMMERCIAL

48. JUNK DEALER'S LICENSE RECORD, 1905-. 1 vol.

Record of licenses issued to purchase junk in county, showing date and duration of license, name of dealer, and location of business. Arr. chron. by dates of licenses. Indexed alph. by names of dealers. Hdw. 200 pp. 15 x 9 x 1. Clk. off.

49. POULTRY DEALERS LICENSE, 1917-. 2 vols. (1 vol. unlabeled; 2).

Record of application for and issuances of licenses to purchase poultry in state, showing date of application and license, names of applicant and dealer, and location of business. Arr. chron. by dates of applications. Indexed alph. by names of dealers. Hdw. 318 pp. 18 x 12 x 2. 1 vol., 1917-26, clk. rec. rm.; 1 vol., 1927-, clk. off.

For original applications, see entry 58-ii.

50. FIRM NAMES, 1927-. 1 f. b. (8). 1909-26 in [Clerk's Miscellaneous Papers], entry 58.

Certificates of firms and partnerships, showing information as in entry 51. Arr. chron. by dates of certificates. For index, see entry 59. Hdw. and typed. 10 x 5 x 14. Clk. rec. rm.

51. REGISTER OF FIRM NAMES, 1909-. 1 vol.

Record of certificates of firms and partnerships, showing date of certificate, name of firm or partnership, names and addresses of members, and nature and location of business. Arr. chron. by dates of certificates. Indexed alph. by names of firms or partnerships. Hdw. 398 pp. 14 x 9 x 2. Clk. off.

For original certificates, see entry 50.

52. INSURANCE COMPANY STATEMENTS, 1866-1920. 2 vols.

(1, 2). Discontinued as county record; licenses issued by state department of insurance are valid in all counties, 1921-.

Record of certificates issued by auditor of state to agents of insurance companies authorizing them to transact business in county, showing date of certificate, names and addresses of company and agent, assets and liabilities of company, and file box reference to original certificates in [Clerk's Miscellaneous Papers], entry 58-x. Arr. chron. by dates of certificates. Indexed alph. by names of companies. Hdw. 420 pp. 16 x 11 x 2. Clk. rec. rm.

53. LIQUOR AND PURE GRAIN ALCOHOL PERMITS, 1918-32. 1

vol. Last entry 1921. Discontinued as county record; kept by state excise director, 1933-34, and by Alcoholic Beverage Commission of Indiana, 1935-.

Record of applications and bonds to retail intoxicating liquor and pure grain alcohol for medicinal, chemical and sacramental purposes, including:

- i. Applications, showing date of application, name of applicant, place of business, and conditions of permit.

For original applications, see entry 58-iv.

- ii. Bonds posted, showing date, amount and conditions of bond, and names of retailer and sureties.

Arr. chron. by dates of applications. Indexed alph. by names of applicants. Hdw. 400 pp. 16 x 12 x 2½. Clk. rec. rm.

54. PETTY MONEY LENDER'S LICENSE, 1913-16. 1 vol. Discontinued as county record; kept by auditor of state, 1917-Apr. 14, 1933, and by department of audit and control, Apr. 15, 1933-.

Record of licenses issued to petty money lenders, showing date of license, name of licensee, location of business, and terms of license. Arr. chron. by dates of licenses. Indexed alph. by names of licensees. Hdw. 286 pp. 14 x 9 x 1. Clk. rec. rm.

55. [FIREARM PERMITS], 1925-. 2 f. d.

Documents pertaining to firearms, including:

- i. Applications for permits to carry firearms, showing date of application; name, age, address, and physical description of applicant; description of firearm; and reason for request.
- ii. Dealers' reports of sales of firearms, showing dates of sale and report; name of dealer; name, age, address, place of birth, and nationality of purchaser; serial number and description of firearm; and name of manufacturer.

Arr. chron. by dates of documents. No index. Hdw. 200 pp. 6 x 14 x 18. 1 f. d., 1925-35, clk. rec. rm.; 1 f. d., 1936-, clk. off.

56. [FIREARM PERMITS], 1927-. 3 f. d., 2 vols.

Copies of permits issued to carry firearms, showing date and number of permit; name, address, date and place of birth, and physical description of recipient; description of firearm; and reason for issuance. Arr. chron. by dates of permits. No index. Hdw. F. d., 6 x 16 x 16; vols., 100 pp. 12 x 8 x 1/2. 3 f. d., 1927-July 1935, clk. rec. rm.; 1 vol., Aug. 1935-Apr. 1937, clk. off.; 1 vol., May 1937-, cir. et. off.

HUNTING, FISHING AND TRAPPING

57. H[UNTING] AND F[ISHING LICENSES], 1935-. 1 f. d., 1 f. b.

Stubs of hunting, fishing and trapping licenses, including:

- i. Stubs of resident hunting, fishing and trapping licenses, showing date and number of license; and name, address, and physical description of licensee.
- ii. Stubs of non-resident hunting and fishing licenses, showing information as in paragraph i.
- iii. Stubs of hunting and fishing free permits issued to honorably discharged soldiers, sailors and marines, showing information as in paragraph i.

Arr. chron. by dates of licenses. No index. Hdw. F. d., 6 x 16 x 16; f. b., 10 x 5 x 14. 1 f. d., 1935-37, clk. rec. rm.; 1 f. b., 1938-, clk. off.

58. [CLERK'S MISCELLANEOUS PAPERS], 1826-. 308 f. b. (numbered irregularly).

Miscellaneous documents, including:

- i. Applications for junk dealers licenses, 1905-, showing information as in entry 48.
- ii. Applications for poultry dealers licenses, 1917-, showing information as in entry 49.

- iii. Applications for petty money lenders licenses, 1913-16, showing information as in entry 54.
- iv. Applications for permits to purchase and sell liquor and pure grain alcohol, 1918-27, showing information as in entry 53-i.
- v. Applications for sire licenses, 1889-, showing date of application; name of applicant; name, description, pedigree, and date of birth of sire; and registration number.
- vi. Certificates of patents granted, 1869-, showing date of certificate; name, age, occupation, and address of patentee; and kind and description of patent.
- vii. Certificates of appointments of officials and deputies, 1844-, showing date of appointment, name of appointee, and nature of duties.
- viii. Dentists' certificates issued by state board of dental examiners and presented to clerk to obtain licenses to practice, 1900-, showing information as in entry 43.
- ix. Drugless physicians' certificates issued by state board of medical registration and examination and presented to clerk to obtain licenses to practice, 1897-, showing information as in entry 42.
- x. Insurance agents' certificates, 1865-1919, showing information as in entry 52.
- xi. Notices of strayed livestock, 1856-93, showing information as in entry 61.
- xii. Optometry certificates issued by state board of registration and examination in optometry and presented to clerk to obtain licenses to practice, 1907-, showing information as in entry 46.
- xiii. Petty money lenders' bonds, 1913-16, showing date, amount, and conditions of bond; and names of principal and sureties.
- xiv. Physicians' certificates issued by state board of medical registration and examination and presented to clerk to obtain licenses to practice, 1885-, showing information as in entry 41.

Also contains: Official Bonds, 1826-1901, entry 29; Notary Bonds, 1852-1901, entry 32; Firm Names, 1909-26, entry 50; Civil [Causes], entry 112; [Justice of Peace Transcripts], 1836-, entry 114; [Petitions for Adoptions], 1857-1910, entry 115; [Apprentice Indentures], 1835-84, entry 116; Insanity

[Causes], 1827-30, entry 118; [Receiver Bonds], 1901-, entry 132; Transcripts to Bind, 1836-1932, entry 143; [Notices of Attachment], 1877-, entry 145; [Stay of Executions], 1914-, entry 146; [Orders for Sales], 1868-, entry 147; [Sheriff's Certificates of Sale], 1889-1909, entry 148; Criminal [Causes], 1869-80, 1915-, entry 156; Recog[nizance Bonds], 1883-1921, entry 160; [Habeas Corpus], 1827-93, entry 161; Probate [Causes], 1826-53, 1889-, entry 167; [Wills], 1827-29, entry 174; [Claims], 1854-88, entry 177; Administrators' [and Executors'] Bonds [and Letters], 1827-69, entry 179; Guardians' Bonds [and Letters], 1827-71, entry 182; Sale [Real] E[state] Bonds, 1910-16, entry 186; [Opinions], entry 209; [Grand Jury Papers], 1879-1914, entry 208; [Admissions to Bar], 1826-93, entry 211; [Summons], 1881-, entry 214; [Change of Venue], 1870-, entry 215; Appeal Bonds, 1870-1912, entry 217; Cost Bonds, 1901-16, entry 218; Attach[ment] Bonds, 1901-17, entry 219; [List of Jurors], 1861-79, 1911-31, entry 221; [Citations], 1888-88, entry 225; Superior [Causes], 1875-80, entry 228; [Stay of Executions], 1877-84, entry 239; and Common Pleas [Causes], entry 246. Arr. chron. by dates of filing. For index, see entry 59. Hdw. and typed. 283 f. b., 5 x 4 x 10; 25 f. b., 10 x 5 x 14. 298 f. b., 1826-, clk. rec. rm; 10 f. b., 1914-, clk. off.

59. INDEX MISCELL[aneous] PAPERS, 1826-. 1 vol.

Index to Official Bonds, 1919-, entry 29; Notary Bonds, 1932-, entry 32; Marriage Applications, Returns, Licenses, 1826-59, 1902-, entry 39; [Nurses' Certificates], 1905-, entry 44; Firm Names, 1927-, entry 50; [Clerk's Miscellaneous Papers], entry 58; Valu[able] Pap[ers], 1853-, entry 60; Civil [Causes], entry 112; Coroner's Inquests, 1861-, entry 117; Insanity Causes, 1831-1924, entry 118; Admission to Riley Hospital, 1925-, entry 123; [Executions], 1894-, entry 138; Transcripts to Bind, 1933-, entry 143; Criminal [Causes], 1827-93, 1913-, entry 156; Recog[nizance] Bonds, 1922-, entry 160; [Wills], 1830-, entry 174; Administrators' [and Executors'] Bonds [and Letters], 1870-, entry 179; Guardians' Bonds [and Letters], 1872-, entry 182; Sale [Real] E[state] Bonds, 1917-, entry 186; [Juvenile Court Papers], 1907-, entry 204; [Grand Jury Papers], 1851-78, 1915-, entry 208; Powers of Attorney, 1879-91, entry 209; Appeal Bonds, 1913-, entry 217; Cost Bonds, 1917-, entry 218; Attach[ment] Bonds, 1918-, entry 219; [Depositions], 1915-, entry 220; [Gross Income Tax Warrants], 1934-, entry 222; Fee Bills, 1897-1927, entry 224; and Common

Pleas [Causes], 1853-72, entry 246; showing date of filing, names of principal or document, and file box reference. Arr. alph. by names of principals or documents. Hdw. 300 pp. 18 x 12 x 3. Clk. rec. rm.

60. VALU[able] PAP[ers], 1853-. 2 f. b. (58; 1 f. b. unlabeled).

Documents filed with clerk for preservation, including notes, mortgages, deeds, and vouchers, showing dates of document and filing, names of principals; and amount, nature, and number of document. Arr. chron. by dates of filing. For index, see entry 59. Hdw. and typed. 11 x 5 x 14. 1 f. b., 1853-1925, clk. rec. rm.; 1 f. b., 1926-, clk. off.

61. ESTRAY RECORD, 1837-. 2 vols. Last entry 1906. Record of notices of strayed livestock, showing dates of finding and notice, names and addresses of finder and owner, description and appraised valuation of animal, and nature of disposal. Arr. chron. by dates of notices. No index. Hdw. 500 pp. 16 x 12 x 3. Clk. rec. rm.

For original notices of strayed livestock, see entry 58-xi.

62. REGISTER OF NEGROES AND MULATTOES, 1853. 1 vol. Register of negro and mulatto residents of county prior to 1851, showing date of registration; name, age, place of birth, description, and address of negro or mulatto; and names of witnesses. Arr. chron. by dates of registrations. Indexed alph. by names of negroes or mulattoes. Hdw. 200 pp. 15 x 10 x 2. Clk. rec. rm.

IV. RECORDER

LEGAL STATUS

The office of recorder has existed in Tippecanoe County ever since 1826 under the mandatory requirements of the Constitution of 1816 and the Constitution of 1851. The recorder is elected for a 4-year term by the voters of the county.¹

¹ Const. 1816, art. 11, sec. 10. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 14, secs. 1, 8; ch. 19, sec. 1. Acts 1817-18 (general), ch. 28, sec. 1. Acts 1817-18 (special), ch. 3, secs. 1, 3. Acts 1822-23, ch. 13, sec. 4. Rev. L. 1824, ch. 36, sec. 3; ch. 82, sec. 1. Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act); ch. 18, sec. 4. Rev. L. 1831, ch. 33, sec. 3; ch. 57, sec. 1. Rev. Stat. 1838, ch. 85, sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 8; ch. 5, sec. 1; ch. 8, sec. 1. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469.

He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to the office for more than 8 years in any 12-year period.⁴ The recorder must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in the amount of \$4,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁸ The recorder must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹ Under the Constitution of 1816 the recorder was elected for a 7-year term and could hold the office of clerk of the circuit court.¹⁰

The recorder receives a regular salary of \$1,840 per year.¹¹ He is permitted to retain as compensation for himself, in addition to his regular salary, 20 percent of the fees collected by him, provided the total amount of fees so retained be not more than \$4,160.¹²

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. L. 1831, ch. 57, sec. 3. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2. Carson v. McPhetridge, 15 Ind. 327 (1860).

⁵ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. McCracken v. State, 27 Ind. 491 (1867).

⁸ Acts 1817-18 (general), ch. 28, secs. 6, 7. Rev. L. 1824, ch. 82, secs. 6, 7. Acts 1825-26, ch. 18, sec. 4. Rev. L. 1831, ch. 77, secs. 2, 3. Rev. Stat. 1838, ch. 85, secs. 2, 3. Rev. Stat. 1843, ch. 4, secs. 86, 90; ch. 8, secs. 2, 3. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1901; Burns 49-3201; Baldwin 5469. State *ex rel.* Lowry v. Davis, 96 Ind. 539 (1884); State *ex rel.* Lowry v. Davis, 117 Ind. 307, 20 N. E. 159 (1889).

⁹ Const. 1816, art. 11, sec. 6. Const. 1851, art. 15, sec. 4. Acts 1825-26, ch. 18, sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81-84, 92; ch. 8, sec. 4. Acts 1905; Burns 10-3703; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Const. 1816, art. 11, sec. 10. Rev. Stat. 1843, ch. 4, sec. 62.

¹¹ Acts 1933; Burns 49-1004; Baldwin 7534.

¹² Acts 1817-18 (general), ch. 40, secs. 5, 7. Acts 1822-23, ch. 26, secs. 1, 2. Rev. L. 1824, ch. 41, secs. 7, 9. Acts 1933; Burns 49-1001, 49-1005; 49-1009; Baldwin 7531, 7535, 7539. Acts 1933, 1937; Burns, 1940 suppl., 49-1009; Baldwin, 1937 suppl., 7539. Shilling v. State *ex rel.* Board of County Comrs., 158 Ind. 185, 62 N. E. 49 (1901).

For sufficient legal causes the recorder may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹³ If the recorder is convicted of a felony the judgment of conviction must declare his office vacant.¹⁴

Any vacancy in the office of recorder is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a recorder is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take an oath and post bond, as was required of his predecessor, and holds office until his successor is elected an qualified.¹⁵

The recorder may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes the salaries of the deputies and assistants in an amount not less than \$75 nor more than \$200 per month.¹⁶ The recorder may require any deputy to give bond.¹⁷ Each deputy must take the oath required of the recorder, may perform all of his official duties, and is subject to the same regulations and penalties.¹⁸ The recorder may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁹

¹³ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁴ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁵ Const. 1851, art. 6, sec. 9. Acts 1817-18 (general), ch. 17, secs. 1, 8. Acts 1822-23, ch. 13, sec. 1. Rev. L. 1824, ch. 36, sec. 1. Rev. Stat. 1838, ch. 85, sec. 14. Rev. Stat. 1843, ch. 4, sec. 155; ch. 8, sec. 16. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Hedley v. Board of County Comrs.*, 4 Blackf. 131 (1835); *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1869); *State ex rel. Ault v. Long*, 91 Ind. 351 (1883). *Opinions of the Attorney General of Indiana, 1936*, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹⁶ Acts 1825, ch. 44, sec. 2. Rev. L. 1831, ch. 77, sec. 6. Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 3, sec. 13. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁷ 1 Rev. Stat. 1852, Acts 1355, 1925; Burns 49-501; Baldwin 13108.

¹⁸ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁹ Rev. L. 1831, ch. 77, sec. 6. Rev. Stat. 1838, ch. 85, sec. 11. Rev. Stat. 1843, ch. 8, sec. 13. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

FUNCTIONS AND RECORDS

Deeds, mortgages, and various other instruments are presented to the recorder for recording, for which he issues official receipts. He keeps an entry book in which he enters, as filed, all such instruments, noting the day and hour received, which is deemed the time of recording.²⁰

To entitle any conveyance, mortgage, or other written instrument to be recorded, the execution thereof must be acknowledged or proved in the manner required by law,²¹ and the intangible tax thereon (if any) must be paid.²² No conveyance of land can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.²³

Legislation requires that the county recorder, record all of the following documents in his office: Deeds;²⁴ land

²⁰ Acts 1807, ch. 18, sec. 10. Acts 1817-18 (general), ch. 28, sec. 10. Rev. L. 1824, ch. 82, sec. 10. Rev. L. 1831, ch. 77, sec. 4. Rev. Stat. 1838, ch. 85, sec. 4. Rev. Stat. 1843, ch. 8, secs. 6-8; ch. 28, sec. 46. Acts 1895; Burns 49-3203; Baldwin 5472. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3211; Baldwin 14665. Hand v. Board of County Comrs., 26 Ind. 179 (1866); Holman v. Doran, 56 Ind. 758 (1877); Gilchrist v. Gough, 63 Ind. 576 (1878); Moore v. Glover, 115 Ind. 367, 16 N. E. 163 (1888).

²¹ Acts 1807, ch. 18, secs. 8, 9, 11-13. Acts 1810, ch. 42, sec. 2. Acts 1817-18 (general), ch. 28, secs. 8, 11; ch. 82, sec. 4. Rev. L. 1824, ch. 82, sec. 8. Rev. L. 1831, ch. 41, secs. 7-11. Rev. Stat. 1838, ch. 44, secs. 7-11. Rev. Stat. 1843, ch. 28, secs. 28-45, 48-51. Acts 1905; Burns 48-801; Baldwin 12473. 1 Rev. Stat. 1852; Burns 49-3212; Baldwin 14666. Acts 1935; Burns, 1940 suppl., 51-507; Baldwin, 1935 suppl., 13227-7. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123 to 56-130, 56-132 to 56-137; Baldwin 14674 to 14676, 14679 to 14683, 14666, 14669, 14658, 14677, 14659, 14733.

The acknowledgment or proof must be recorded with the instrument, *Ibid*.

²² Acts 1933; Burns 64-929; Baldwin 15927.

²³ Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 151. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

²⁴ Acts 1807, ch. 18, secs. 1, 8, 9. Acts 1817-18 (general), ch. 23, secs. 1, 10. Acts 1819-20, ch. 65, sec. 2. Rev. L. 1824, ch. 82, secs. 1, 8, 10. Acts 1828-29, ch. 51, secs. 1, 2. Rev. L. 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Acts 1836-37 (general), ch. 9, secs. 9-16. Rev. Stat. 1838, ch. 44, sec. 7; ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 23, secs. 24, 25, 43. 1 Rev. Stat. 1852; Burns 49-3210, 56-118, 56-131; Baldwin 5475, 14661, 14665. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. Lowry v. Smith, 97 Ind. 466 (1884).

Cemetery records. Rev. Stat. 1843, ch. 25, secs. 62-65. Acts 1935; Burns 21-223; Baldwin 4648. 1 Rev. Stat. 1852; Burns 25-1521, 25-1522; Baldwin 10600, 10602.

Wabash and Erie Canal deeds. Acts 1881 (Spec. Sess.); Burns 2-1636; Baldwin 267.

Deeds of commissioners appointed by court to make conveyance. Acts 1881 (Spec. Sess.); Burns 3-1008; Baldwin 894.

patents;²⁵ probated wills;²⁶ decrees quieting title to lands;²⁷ partitions of real estate under judicial proceedings;²⁸ mortgages; releases and assignments of mortgages;²⁹ conditional

Tax deeds (1824 to date) and tax certificates (1843 to 1881). Rev. L. 1824, ch. 86, sec. 12. Rev. Stat. 1843, ch. 12, sec. 159. 1 Rev. Stat. 1852, ch. 6, sec. 197. Acts 1881 (Spec. Sess.), ch. 96, secs. 195, 211. Acts 1919, ch. 59, secs. 263, 284.

Sheriff's deeds. Acts 1881 (Spec. Sess.); Burns 2-4006, 2-4101, 2-4162; Baldwin 629, 619, 620.

Deeds of school lands and deeds connected with school fund loans. Acts 1828-29, ch. 84, sec. 6. Rev. L. 1831, ch. 86, secs. 7, 24. Rev. Stat. 1838, ch. 94 (12), sec. 7. Rev. Stat. 1843, ch. 13, secs. 44, 49. Acts 1899; Burns 28-255; Baldwin 6607.

²⁵ "May be recorded as other deeds and conveyances." Acts 1881; Burns 2-1632; Baldwin 271.

²⁶ Acts 1826-27, ch. 57, sec. 6. Acts 1891; Burns 7-712; Baldwin 3413.

Wills probated in another county should be recorded in the deed record. Acts 1933; Burns 7-713; Baldwin 3414.

²⁷ Acts 1911; Burns 3-1409; Baldwin 968.

The 1911 law requires the recording in a substantially bound book to be known as the "Quiet Title Record," and requires an index for that record. *Ibid*.

²⁸ Acts 1859, ch. 103. Acts 1907, ch. 80. Acts 1919; Burns 64-518; Baldwin 15555.

²⁹ Acts 1807, ch. 18, secs. 1, 4, 8, 9. Acts 1817-18 (general), ch. 28, sec. 1. Acts 1825-26, ch. 42, sec. 17. Rev. L. 1831, ch. 41, sec. 7; ch. 77, secs. 1, 4. Rev. Stat. 1838, ch. 44, secs. 7, 12; ch. 85, secs. 1, 4, 8, 9. Rev. Stat. 1843, ch. 8, secs. 5, 9; ch. 28, secs. 26, 27, 48; ch. 29, secs. 52, 63, 69-71. Acts 1909, 1917, 1923; Burns 2-617; Baldwin 61-2 (repealed by Acts 1937, ch. 97, sec. 4). Acts 1937; Burns, 1940 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1905; Burns 49-3202, 49-3204; Baldwin 5476, 5473. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671. 1 Rev. Stat. 1852; Burns 56-122; Baldwin 14673. 2 Rev. Stat. 1852; Burns 56-705, 56-708; Baldwin 989, 992. Acts 1901; Burns 56-709, 56-710; Baldwin 993, 994. Acts 1925; Burns 56-712, 56-713; Baldwin 10575, 10576. 2 Rev. Stat. 1852, Acts 1877; Burns 56-715; Baldwin 996. Acts 1877; Burns 56-716; Baldwin 998. Acts 1899; Burns 56-717; Baldwin 997. Anderson Bldg. & L. Sav. Assn. v. Thompson, 87 Ind. 278 (1881); Mechanics' Bldg. Assn. v. Whitacre, 92 Ind. 547 (1884); Chandler v. Scott, 127 Ind. 226, 26 N. E. 797 (1891); State *ex rel.* Mc Coy v. Krost, 140 Ind. 41, 39 N. E. 46 (1894).

Chattel mortgages before 1935 (old system). Rev. Stat. 1838, ch. 85 (first act), sec. 1; ch. 85 (second act), sec. 1. 1 Rev. Stat. 1852, Acts 1897; Burns 33-301, 33-302; Baldwin 8373, 8374 (first section repealed by Acts 1935, ch. 147, sec. 20).

Chattel mortgages and chattel mortgage minute book since 1935. Acts 1935; Burns, 1940 suppl., 51-504 to 51-517; Baldwin, 1935 suppl., 13227-4 to 13227-17. Voigt v. Morgenthaler Linotype Co., 213 Ind. 925, 12 N. E. (2d) 498 (1938); Voigt v. Ludlow Typograph Co., 213 Ind. 329, 12 N. E. (2d) 499 (1938).

School fund loans. Acts 1828-29, ch. 84, secs. 16, 19. Rev. L. 1831, ch. 86, sec. 23. Acts 1836-37 (general), ch. 2, sec. 10. Rev. Stat. 1838, ch. 85, sec. 10. Acts 1865; Burns 28-233; Baldwin 6583. Stockwell v. State *ex rel.* Johnson, 101 Ind. 1 (1885).

Mortgages held by county agent. Rev. Stat. 1838, ch. 89, sec. 15.

sales contracts;³⁰ federal tax lien notices and releases thereof;³¹ statutory liens of materialmen, building contractors, laborers,³² transfermen,³³ and owners of stallions;³⁴ contracts waiving liens of materialmen, laborers, and building contractors;³⁵ releases of vendors' liens;³⁶ leases of lands;³⁷ surveys establishing a meridian line;³⁸ surveyor's field notes;³⁹ maps and plats;⁴⁰ notices of disputes of easements;⁴¹ farm names;⁴² fence marks;⁴³ marks and brands of animals;⁴⁴

Right to rely on record of mortgage. Vincennes Savings and Loan Assn. v. St. John, 213 Ind. 171, 12 N. E. (2d) 127 (1938).

³⁰ Acts 1935; Burns, 1940 suppl., 58-806, 58-809 to 58-811; Baldwin, 1935 suppl., 14857-5, 14857-8 to 14857-10.

The law requires that a separate record be kept. *Ibid.*

³¹ Acts 1925; Burns 49-3221 to 49-3225; Baldwin 10570 to 10574.

³² Rev. Stat. 1838, ch. 69, sec. 7. Rev. Stat. 1843, ch. 42, sec. 5. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 650, p. 182. Acts 1867, ch. 36, sec. 2. Acts 1883, ch. 115, sec. 4. Acts 1909; Burns 43-703, 43-704; Baldwin 10507, 10508. State *ex rel.* Lyons v. Phillips, 157 Ind. 481, 62 N. E. 12 (1901). Corporation employees. Acts 1877 (Spec. Sess.); Burns 43-302; Baldwin 10547.

³³ Acts 1921, 1929; Burns 43-1002, 43-1003; Baldwin 10529, 10530.

³⁴ Acts 1889, ch. 116, sec. 4. Acts 1913, 1933; Burns 16-910; Baldwin 3792.

³⁵ Acts 1921, ch. 56, sec. 1.

The law requires the recording by the recorder "in books provided by him for that purpose" and requires an index thereto "in books kept for that purpose." *Ibid.*

³⁶ Acts 1937; Burns, 1940 suppl., 2-625; Baldwin, 1937 suppl., 61-2c. Acts 1889; Burns 56-144, 56-145; Baldwin 14702, 14703.

³⁷ Rev. Stat. 1843, ch. 28, sec. 25. 1 Rev. Stat. 1852; Burns 56-118; Baldwin 14664. 1 Rev. Stat. 1852, Acts 1875, 1913, 1921, 1923; Burns 56-119; Baldwin 14671.

Miscellaneous record specified. Acts 1897; Burns 56-120.

³⁸ Acts 1895; Burns 49-3327 to 49-3329; Baldwin 10849 to 10851.

³⁹ Acts 1828-29, ch. 94, secs. 1, 3. Rev. L. 1831, ch. 102, secs. 5-7. Rev. Stat. 1843, ch. 10, secs. 10, 11, 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3509; Baldwin 5508.

⁴⁰ Acts 1817-18 (general), ch. 82, secs. 1, 3, 4. Acts 1819-20, ch. 22, secs. 3, 4. Rev. L. 1824, ch. 110, secs. 1, 4; ch. 111, sec. 14. Rev. L. 1831, ch. 77, sec. 7; ch. 105, sec. 14. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, ch. 9. Acts 1881 (Spec. Sess.); Burns 6-1127; Baldwin 3168. Acts 1925. Burns 21-219 to 21-221, 21-225, 21-226, 21-228; Baldwin 4644 to 4646, 4650, 4651, 4653. 1 Rev. Stat. 1852; Burns 25-1522; Baldwin 10602. Acts 1905; Burns 48-801, 48-802; Baldwin 12473, 12474. 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

⁴¹ 1 Rev. Stat. 1852; Burns 56-804; Baldwin 14775.

⁴² Acts 1913; Burns 49-3226 to 49-3230; Baldwin 5488 to 5492.

⁴³ Acts 1877 (Spec. Sess.); Burns 30-510; Baldwin 7630.

⁴⁴ Acts 1835-36 (general), ch. 24, sec. 1. Rev. Stat. 1838, ch. 85, sec. 6. Rev. Stat. 1843, ch. 8, secs. 11, 12. 1 Rev. Stat. 1852; Burns 49-3231; Baldwin 5474.

powers of attorney;⁴⁵ discharges from military service;⁴⁶ charters and proceedings of corporations and associations;⁴⁷ limited partnerships;⁴⁸ bonds of surviving partners;⁴⁹ leases of rolling stock and equipment of railroads;⁵⁰ statutory statements of express companies;⁵¹ certificates revoking the admission of foreign corporations to do business in this state;⁵² and the official bond of the clerk of the circuit court.⁵³

The recorder keeps a miscellaneous record in which he records documents for which he keeps no specific book, including many papers, writings, and documents which no law specifically requires him to record.⁵⁴

A law provides that, when so directed by the board of commissioners, the recorder must "subscribe for one of each of the newspapers of a political or miscellaneous character published in his county, file the same in his office, and cause said newspaper to be substantially bound, from time to time, in volumes of a convenient size, to be kept in his office for the use of the inhabitants of this state, who

⁴⁵ Acts 1881 (Spec. Sess.), 1891; Burns 2-2519; Baldwin 391. Acts 1883; Burns 49-1309, 56-108, 56-109; Baldwin 14733, 14729, 14732. 1 Rev. Stat. 1852; Burns 56-106, 56-107, 56-137; Baldwin 14730, 14731.

⁴⁶ Acts 1865, ch. 40, sec. 4. Acts 1865 (Spec. Sess.), ch. 7, sec. 4. Acts 1925; Burns 59-1002 to 59-1004; Baldwin 11002 to 11004.

The law requires the recording in a separate book and requires an index thereto. *Ibid.*

⁴⁷ Acts 1816-17, ch. 28, sec. 5. Acts 1820-21, ch. 20, sec. 1. Rev. L. 1824, ch. 61, sec. 5; ch. 64, secs. 1, 7; ch. 87, secs. 7, 9. Acts 1826-27, ch. 88, secs. 1-3. Acts 1828-29, ch. 4, secs. 5, 7. Rev. L. 1831, ch. 60, sec. 5; ch. 64, sec. 1; ch. 87, sec. 1. Acts 1929; Burns 25-219, 25-228, 25-235, 25-241, 25-242, 25-305, 25-309, 25-311; Baldwin 4919, 4928, 4935, 4941, 4942, 4963, 4967, 4969. Acts 1883; Burns 25-2002; Baldwin 10681. Acts 1909, 1941; Burns, 1941 suppl., 25-3602; Baldwin, 1941 suppl., 9280-2.

⁴⁸ Such documents are required to be recorded "in a book to be kept for that purpose." Rev. Stat. 1843, ch. 32, sec. 4. Acts 1859; Burns 50-104, 50-106, 50-112; Baldwin 13195, 13197, 13209.

⁴⁹ Acts 1877; Burns 50-304; Baldwin 13216.

⁵⁰ Acts 1891; Burns 55-3716 to 55-3718; Baldwin 15449 to 15451.

⁵¹ Acts 1879 (Spec. Sess.); Burns 55-4102; Baldwin 14401.

⁵² Acts 1929; Burns 25-311; Baldwin 4969.

⁵³ Rev. L. 1831, ch. 15, sec. 5. Rev. Stat. 1838, ch. 17. Rev. Stat. 1843, ch. 4, sec. 89. 1 Rev. Stat. 1852; Burns 49-106; Baldwin 13066.

⁵⁴ Rev. L. 1831, ch. 77, sec. 7. Rev. Stat. 1838, ch. 85, sec. 12. Rev. Stat. 1843, ch. 8, sec. 14. 1 Rev. Stat. 1852, Acts 1925; Burns 49-3205; Baldwin 5470. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. Information obtained from E. P. Brennen, state examiner, on May 18, 1939, by W. Davis Hamilton.

shall, at all times during office hours, have access to the same, free of all charge and expense."^{5 5}

Laws formerly required the recorder to record the following documents: Indentures of apprentices;^{5 6} old-age assistance awards;^{5 7} inheritance tax receipts;^{5 8} dentists' certificates of registration;^{5 9} special assessments against lands benefited by ditches and drains;^{6 0} and official bonds of the sheriff, coroner,^{6 1} county school commissioner,^{6 2} and tobacco inspector.^{6 3}

The recorder is required to index the deeds, mortgages, and various other instruments recorded by him.^{6 4} Information

^{5 5} 1 Rev. Stat. 1852; Burns 26-626 to 26-628; Baldwin 5285 to 5287.

^{5 6} Acts 1827-28, ch. 46, sec. 1. Rev. L. 1831, ch. 69, sec. 7. Rev. Stat. 1838, ch. 4, sec. 2. Rev. Stat. 1843, ch. 35, secs. 138, 139. 1 Rev. Stat. 1852; Burns 49-3210; Baldwin 5475.

The law providing for indenturing of apprentices was repealed in 1939. Acts 1939, ch. 10.

^{5 7} Acts 1936 (Spec. Sess.), ch. 3, sec. 38. Acts 1941, ch. 201.

^{5 8} Acts 1913, ch. 47, sec. 21.

This act, which was superseded by Acts 1931, ch. 75, provided that such receipts be recorded in a book labeled "Transfer Tax."

^{5 9} Acts 1867, ch. 32, sec. 9. Acts 1869, ch. 211, sec. 29.

^{6 0} Acts 1881 (Spec. Sess.), ch. 43, sec. 6. Acts 1885 (Spec. Sess.), ch. 40, sec. 6. Acts 1905, ch. 157, secs. 4, 14. Acts 1907, ch. 252, secs. 6, 21. Acts 1933, ch. 264, sec. 81.

Releases. Acts 1941, ch. 73.

^{6 1} Acts 1816-17, ch. 13, sec. 3. Acts 1817-18 (general), ch. 19, sec. 3. Rev. L. 1824, ch. 100, sec. 3. Rev. L. 1831, ch. 97, sec. 3. Rev. Stat. 1838, ch. 99, sec. 3. Rev. Stat. 1843, ch. 38, secs. 69, 70. 1 Rev. Stat. 1852, ch. 92. 2 Rev. Stat. 1852, pt. 1, ch. 6, sec. 1; ch. 7, sec. 1.

^{6 2} Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 5. Acts 1836-37 (general), ch. 2 (2), sec. 3. Rev. Stat. 1838, ch. 94 (2), sec. 3. Rev. Stat. 1843, ch. 4, sec. 162.

^{6 3} Acts 1816-17, ch. 11, sec. 4. Rev. L. 1824, ch. 109, sec. 4.

^{6 4} Garrett v. Board of County Comrs., 92 Ind. 518 (1883). Deeds. Acts 1825, ch. 44, sec. 1. Acts 1826-27, ch. 52, sec. 1. Rev. L. 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. 1 Rev. Stat. 1852; Burns 49-3209; Baldwin 5471. 1 Rev. Stat. 1852, Acts 1855; Burns 49-3216, 49-3218; Baldwin 5480, 5482. Turpen v. Board of County Comrs., 7 Ind. 172 (1855); State *ex rel.* Board of County Comrs. v. Atkinson, 17 Ind. 26 (1861).

Mortgages. Acts 1825, ch. 44, sec. 1. 1826-27, ch. 52, sec. 1. Rev. L. 1831, ch. 77, sec. 5. Rev. Stat. 1838, ch. 85, sec. 5. Rev. Stat. 1843, ch. 8, sec. 10. 1 Rev. Stat. 1852; Burns 49-3209, 49-3217, 49-3218; Baldwin 5471, 5481, 5482. Gilchrist v. Gough, 63 Ind. 576 (1878). Reeder v. State *ex rel.* Harlan, 98 Ind. 114 (1884).

Index to chattel mortgage minute book. Acts 1935; Burns, 1940 suppl., 51-510; Baldwin, 1935 suppl., 13227-10.

Federal tax liens. Acts 1925; Burns 49-3222; Baldwin 10571.

Conditional sales of fixtures. Acts 1935; Burns, 1940 suppl., 58-806, 58-809; Baldwin, 1935 suppl., 14857-5, 14857-8.

concerning the documents recorded in his office is reported annually to the state division of accounting and statistics.⁶⁵

The recorder charges the fees required by law. He keeps a combined fee book and cashbook, and enters therein, as received, all money received in his office. Quarterly he reports to the auditor the amount of fees collected by him, and pays such fees over to the treasurer.⁶⁶

Printed blank forms (furnished by the county) of deeds, mortgages, and other instruments may be used by the recorder for recording instruments (executed on similiar printed forms) for any person who presented 500 or more of such instruments to the recorder for recording during the last preceding year.⁶⁷

The photographic process of recording instruments may be used by the recorder if adopted by the board of commissioners.⁶⁸ Such method has never been used generally by the recorder of Tippecanoe County.

Forms for the following books were prescribed for recorders by the state board of accounts: A combined fee book and cashbook; register of farm names; chattel mortgage minute book; and abstract of old-age assistance awards. Said board has prescribed forms of blanks for report of fees collected, application for registration of farm names, certificate of registration of farm names, and chattel mortgage receipt.⁶⁹

Formerly the county treasurer, auditor, and recorder selected petit jurors for the circuit court and court of common pleas.⁷⁰

Quiet title record. Acts 1911; Burns 3-1409; Baldwin 968.

Discharges from military service. Acts 1925; Burns 59-1003; Baldwin 11003.

Contracts waiving liens of laborers, materialmen, and building contractors. Acts 1921, ch. 56, sec. 1.

⁶⁵ Acts 1909; Burns 60-202; Baldwin 13855. *Statistical Report for the State of Indiana for the Period ending June 30, 1940* (Indianapolis, 1941). 56-58.

⁶⁶ Acts 1871, ch. 15, secs. 4, 21, 22, 51. Acts 1883, ch. 78, sec. 3. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1308, 49-1310; Baldwin 7566, 7567. Acts 1895, 1903, 1913; Burns 49-1401, 49-1402, 49-1408, 49-1410; Baldwin 7576, 7577, 7583, 7585. *Opinions of the Attorney General of Indiana, 1937*, p. 317. See footnote 12.

Fee charged where single instrument releases or assigns more than one chattel mortgage. *Opinions of the Attorney General of Indiana, 1939*, p. 54.

⁶⁷ Acts 1875 (Spec. Sess.), 1919; Burns 49-3206; Baldwin 5487.

⁶⁸ Acts 1927; Burns 49-3207; Baldwin 14667.

⁶⁹ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

⁷⁰ 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270. See the essay entitled "Circuit Court."

FILING OF INSTRUMENTS FOR RECORDING

68. ENTRY BOOK, 1827-1906, 1912-. 31 vols. (1-19, 21-32).

Record of filing of instruments for recording, showing date and time of filing, names of principals, kind and number of instrument, amounts of consideration and fee, location and description of property, and volume and page reference to recording. Also contains: Satisfactions, Cancellations and Assignments, 1832-1904, entry 64; and Fee and Cash Book, 1827-95, entry 105. Arr. chron. by dates of filing. No index. Hdw. 500 pp. 17 x 12 x 2. 30 vols., 1827-1906, 1912-34, recr. rec. rm.; 1 vol., 1935-, recr. off.

64. SATISFACTIONS, CANCELLATIONS AND ASSIGNMENTS, 1905-. 4 vols. (1-4). 1832-1904 in Entry Book, entry 63.

Daily entry book of satisfactions and cancellations of chattel and real mortgages and liens, and assignments, showing dates of instruments and entry, names of mortgagor and mortgagee, amounts of consideration and fees, kind of instrument, and volume and page reference to recording. Arr. chron. by dates of entries. No index. Hdw. 300 pp. 18 x 12 x 2½. 3 vols., 1905-June 7, 1937, recr. rec. rm.; 1 vol., June 7, 1937-, recr. off.

LAND TRANSFERS

DEEDS, TITLES AND GRANTS

65. DEED RECORD, 1826-, 195 vols. (A-C, C, D-N, N-X, X, Y, Z, 27-31, 31-39, 39-190).

Transcripts of deeds for conveyance of title to real property, showing date of deed, date and time of recording, names of grantor and grantee, entry number, amount of consideration, location and description of real property, and kind of deed. Also contains: Cemetery Record, 1848-1924, entry 70; Sheriff's Deed Record, 1834-88, 1908-, entry 71; Tax Deed Record, 1834-88, 1908-, entry 74; Commissioners', Executors', Administrators' and Partition Deed Record, 1833-88, July 1908-, entry 75; Will Record, 1836-81, entry 76; Plat Book, 1826-89, entry 78; Mortgage Record, 1826-52, entry 81; School Fund Mortgage Record, 1837-52, entry 82; Release of Mortgage Record, 1833-52, entry 83; Chattel Mortgage Record, 1832-52, entry 88; Mechanics' Lien Record, 1838-53, entry 89; Lease Record, 1837-67, entry 96; Power of Attorney, 1833-52, entry 97; Miscellaneous Record Affidavits, 1828-94, entry 99;

Miscellaneous Record, 1830-1930, entry 100; and Discharge Record, 1866-1917, entry 102. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees; for separate index, see entry 66. Hdw., 1826-1907; typed, 1908-. 640 pp. 18 x 12 x 3. 193 vols., 1826-Apr. 27, 1939, recr. rec. rm.; 2 vols., Apr. 27, 1939-, recr. off.

For original deeds, see entry 95-i.

66. GENERAL INDEX TO DEEDS, 1826-. 206 vols. (labeled as to deed record covered).

Index to Deed Record, entry 65, showing date of recording, names of grantor and grantee, amount of consideration, location and description of property, and volume and page reference to recording. Arr. alph. by names of grantors and grantees. Hdw. 500 pp. 16 x 11 x 1½. 205 vols., 1826-Apr. 27, 1939, recr. rec. rm.; 1 vol., Apr. 27, 1939-, recr. off.

67. SPRINGVALE CEMETERY RECORD, 1869-. 2 vols. (1, 2). Transcript of deeds for conveyance of titles to lots in Springvale Cemetery, showing date and time of recording, date of deed, names of grantor and grantee, amount of consideration, instrument number, and location and description of lot. Arr. chron. by dates of recording. For index, see entry 68. Hdw. 500 pp. 18 x 16 x 3. 1 vol., 1869-Sept. 8, 1917, recr. rec. rm.; 1 vol., Sept. 9, 1917-, recr. off.

68. INDEX TO SPRINGVALE CEMETERY DEED RECORD, 1869-. 1 vol.

Index to Springvale Cemetery Record, entry 67, showing name of grantee, and volume and page reference to recording. Arr. alph. by names of grantees. Hdw. 100 pp. 18 x 12 x 1. Recr. off.

69. CEMETERY DEED RECORD, 1903-. 1 vol.

Transcript of deeds for conveyance of titles to lots in Grand View Cemetery, showing dates of deed and recording, names of grantor and grantee, amount of consideration, instrument number, and location and description of lot. Arr. chron. by dates of recording. Indexed alph. by names of grantees. Hdw. 603 pp. 18 x 12 x 3. Recr. off.

70. CEMETERY RECORD, 1925-. 1 vol. 1848-1924 in Deed Record, entry 65.

Transcript of deeds for conveyance of titles to cemetery lots, showing dates of deed and recording; names of grantor, grantee, and cemetery; amount of consideration; instrument number; and location and description of lot. Arr. num. by instrument nos. Indexed alph. by names of grantors and grantees. 600 pp. 18 x 12 x 3. Recr. off.

71. SHERIFF'S DEED RECORD, 1889-1907. 3 vols., (1-3).
1834-88, 1908- in Deed Record, entry 65.

Transcripts of deeds for conveyance of titles to real property sold to satisfy judgments, showing dates of sale, deed, and recording; names of grantor and grantee; amount of consideration; instrument number; and location and description of property. Arr. num. by instrument nos. Indexed alph. by names of grantees. Hdw., 1889-Dec. 2, 1907; typed, Dec. 3, 1907-Dec. 18, 1907. 576 pp. 18 x 12 x 3. Recr. rec. rm.

72. QUIET TITLE RECORD, 1891-. 3 vols. (1-3). Title varies; Quieting Title, Settlement of Estates, 1891-1908, 1 vol.

Transcripts of court decrees rendered in causes quieting titles to real property, showing dates of trial and recording; names of plaintiff, defendant, attorneys, and witnesses; cause number; location and description of property; and proceedings and decision of court. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants 1895-1910; for index, 1911-, see entry 73. Typed. 550 pp. 18 x 12 x 3. 2 vols., 1891-June 2, 1923, recr. rec. rm.; 1 vol., June 3, 1923-, recr. off.

73. INDEX TO QUIET TITLE RECORD, 1911-. 2 vols. (2, 3). Index to Quiet Title Record, entry 72, showing dates of filing, decree, and recording; names of plaintiff and defendant; location and description of property; and volume and page reference to recording. Arr. alph. by names of plaintiffs. Hdw. 225 pp. 18 x 14 x 1. 1 vol., 1911-June 2, 1923, recr. rec. rm.; 1 vol., June 3, 1923-, recr. off.

74. TAX DEED RECORD, 1889-1907. 3 vols. (1-3). 1834-88, 1908- in Deed Record, entry 65.

Transcripts of deeds for conveyance of title to purchasers of land sold for nonpayment of taxes, showing dates of sale, deed, filing, and recording; names of grantor and grantee; amount of consideration; instrument number; and location and description of property. Arr. num. by instrument nos. Indexed alph. by names of grantees. Hdw. 500 pp. 18 x 12 x 3. Recr. rec. rm.

75. COMMISSIONERS', EXECUTORS', ADMINISTRATORS', AND PARTITION DEED RECORD, 1889-June 1908. 3 vols. (1-3).
1833-88, July 1908- in Deed Record, entry 65.

Record of court decrees in actions for partition of real property, showing dates of trial, filing, and recording; names of estate, plaintiff, defendant, attorneys, and witnesses; cause number; location and description of property; and

decision of court. Arr. num. by cause nos. Indexed alph. by names of principals. Hdw., 1889-Dec. 26, 1907; typed, Dec. 27, 1907-June 1908. 550 pp. 18 x 12 x 3. Recr. rec. rm.

76. WILL RECORD, 1882-. 3 vols. (1-3). 1886-81 in Deed Record. entry 65.

Transcripts of wills filed for probate, showing dates of will, filing, and recording; names of testator, heirs, witnesses, and executor; amount and description of estate; and provisions of will. Arr. chron. by dates of recordings. Indexed alph. by names of testators. Hdw., 1882-Aug. 1907; typed, Sept. 1907-. 576 pp. 18 x 12 x 3. 2 vols., 1882-Feb. 1923, recr. rec. rm.; 1 vol., Aug. 1923-, recr. off.

For original wills, see entries 95-iv, 174; for other will records, see entry 175.

77. TRACT BOOK, 1824-53. 2 vols.

Register of original land grants and sales, showing date of sale; name of purchaser; amount of consideration; numbers of Congressional township, range, and section; and location and description of property. Arr. num. by Congressional township and range nos., thereunder by section nos. No index. Hdw. 340 pp. 18 x 11 x 1½. Recr. rec. rm.

PLATS (see also entry 358)

78. PLAT BOOK, 1890-. 4 vols. 1826-89 in Deed Record, entry 65.

Plats of all towns, cities, additions, parks and cemeteries in county, showing dates of plat, filing, and recording; name and number of plat; location and description of plat; and volume and page reference to Deed Record, entry 65. Arr. chron. by dates of recording. For index, see entry 79. Black and white and blueprints. 200 pp. 24 x 30 x 2½. Recr. rec. rm.

79. INDEX TO PLATS, 1827-. 3 vols. (2 vols. unlabeled; 2).

Index to plats recorded in Deed Record, 1826-89, entry 65; and Plat Book, entry 78, showing name of plat, and volume and page reference to recording. Arr. alph. by names of plats. Hdw. and typed. Condition fair. 100 pp. 16 x 9 x 1. Recr. rec. rm.

MORTGAGE TRANSACTIONS

REAL ESTATE

80. GENERAL INDEX MORTGAGES, 1826-. 240 vols. (unlabeled as to Mortgage Record covered). Title varies: General Index Mortgages in Deed Record, 1826-52, 1 vol.

Index to mortgages in Deed Record, 1826-52, entry 65; and Mortgage Record, 1853-, entry 81, showing date of recording, names of mortgagor and mortgagee, kind of instrument, location and description of property, and volume and page reference to recording. Arr. alph. by names of mortgagors and mortgagees. Hdw. 91 vols., 300 pp. 14 x 9 x 1; 149 vols., 300 pp. 18 x 16 x 1. Recr. rec. rm.

81. MORTGAGE RECORD, 1853-. 178 vols. (1-9, 9-177). 1826-52 in Deed Record, entry 65.

Transcripts of real property mortgages executed to secure loans, showing dates of mortgage and satisfaction; date and time of recording; names of mortgagor and mortgagee; amount and conditions of mortgage; and location, description, and valuation of property. Also contains: School Fund Mortgage Record, 1853-64, entry 82; Release of Mortgage Record, 1853-88, entry 83; Chattel Mortgage Record, 1853-88, entry 83; Power of Attorney, 1853-80, entry 97; and Miscellaneous Records, 1853-1930, entry 100. Arr. chron. by dates of mortgages. Indexed alph. by names of mortgagors and mortgagees; for separate index, see entry 80. Hdw. 1853-July 1902; typed, Aug. 1902-. 620 pp. 18 x 12 x 3. 177 vols., 1853-May 8, 1939, recr. rec. rm.; 1 vol., May 8, 1939-, recr. off.

For original real estate mortgages, see entry 95-iii.

82. SCHOOL FUND MORTGAGE RECORD, 1865-. 7 vols. (1, 1-6). 1837-52 in Deed Record, entry 65; 1853-64 in Mortgage Record, entry 81.

Transcripts of mortgages executed to secure school fund loans, showing dates of mortgage, recording, and maturity; names of mortgagor, mortgagee, and fund; amount, conditions, and number of mortgage; and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors. Hdw., 1865-Feb. 2, 1908; typed, Feb. 3, 1908-. 576 pp. 18 x 12 x 3. 6 vols., 1865-July 1931, recr. rec. rm.; 1 vol., Aug. 1931-, recr. off.

For other school fund mortgage records, see entries 346, 349.

83. RELEASE OF MORTGAGE RECORD, 1839-. 19 vols. (1-19). 1833-52 in Deed Record, entry 65; 1853-88 in Mortgage Record, entry 81.

Transcripts of real property mortgage releases, showing dates of release and recording, names of mortgagor and mortgagee, statement of release, and volume and page reference to Mortgage Record, entry 81. Arr. chron. by dates of recording. Indexed alph. by names of mortgagors and mortgagees. Hdw.,

1889-Nov. 12, 1893; typed, Nov. 13, 1893-. 620 pp. 18 x 12 x 3. 18 vols., 1889-May 16, 1936, recr. rec. rm.; 1 vol., May 17, 1936-, recr. off.

For original real property mortgage releases, see entry 95-ii.

CHATTEL

84. CHATTEL MORTGAGE MINUTE BOOK, June 15, 1935-. 4 vols. (1-4).

Mortgages and contracts, including:

- i. Abstracts of mortgages executed to secure loans on personal property, showing dates of mortgage, recording, filing, and maturity; names of mortgagor and mortgagee; amount and conditions of loans; instrument number; description of property; and amount of intangible tax paid.
- ii. Conditional sales contracts, showing dates of contract and filing, entry number, names of vendor and vendee, amount and conditions of contract, and description of property.

Arr. num. by instrument nos. Indexed alph. by names of mortgagors or vendors; for separate index, see entry 85. Hdw. 300 pp. 18 x 12 x 3. 3 vols., 1935-Jan. 14, 1938, recr. rec. rm.; 1 vol., Jan. 14, 1938-, recr. off.

For prior records, see entry 83; for original mortgages and contracts, see entry 86.

85. INDEX TO CHATTEL MORTGAGE MINUTE BOOK, June 15, 1935-. 1 vol.

Index to Chattel Mortgage Minute Book, entry 84, showing date and time of recording, instrument number, names of mortgagor and mortgagee, amount of mortgage, and volume and page reference to recording. Arr. alph. by names of mortgagees. Hdw. 600 pp. 18 x 12 x 3. Recr. off.

86. [CHATTEL MORTGAGES AND CONDITIONAL SALES CONTRACTS], June 15, 1935-. 27 f. b. (labeled by inclusive instrument nos.). 1860-June 14, 1935 in [Miscellaneous Documents], entry 95.

Contains:

- i. Original chattel mortgages, showing dates of mortgage, filing, and maturity; entry number; names of mortgagor and mortgagee; amount and conditions of mortgage; description of property; and volume and page reference to Chattel Mortgage Minute Book, entry 84.

- ii. Original conditional sales contracts, showing dates of contract and filing, entry number, names of vendor and vendee, amount and conditions of contract, description of property, and volume and page reference to Chattel Mortgage Minute Book, entry 84.

Arr. num. by entry nos. No index. Hdw. and typed. 11 x 5 x 14. Recr. off.

87. CHATTEL RECEIPTS, June 15, 1935-. 6 vols.

Duplicates of receipts issued by recorder for chattel mortgages kept on file until released, showing dates of receipt, mortgage, filing, and maturity; number and amount of mortgage; receipt number; and names of mortgagor, mortgagee, and person filing mortgage. Arr. chron. by dates of filing. No index. Hdw. 200 pp. 14 x 10 x 1½. Recr. off.

88. CHATTEL MORTGAGE RECORD, 1889-Aug. 5, 1935. 87 vols. (1-87). 1882-52 in Deed Record, entry 65; 1853-83 in Mortgage Record, entry 81.

Transcripts of chattel mortgages executed on personal property to secure loans, showing dates of mortgage, filing, recording, and maturity; names of mortgagor and mortgagee; amount, number, and conditions of mortgage; and description of property. Arr. num. by mortgage nos. Indexed alph. by names of mortgagors and mortgagees. Hdw., 1889-Apr. 29, 1893; typed, Apr. 29, 1893-Aug. 5, 1935. 540 pp. 18 x 12 x 3. Recr. rec. rm.

For subsequent records, see entry 84.

LIENS

89. MECHANIC'S LIEN RECORD, 1854-. 9 vols. (1, 3, 5-11). Title varies: Miscellaneous Record, Mechanic's Liens, 1854-Sept. 19, 1894, July 8, 1929-Jan. 1933, 2 vols.; Miscell[aneou]s Mechanic's Record, 1905-13, 1 vol. 1888-53 in Deed Record, entry 65.

Transcripts of mechanics' liens executed to insure payments for labor and materials, showing dates of lien, recording, and satisfaction; names of lienor and lienee; amount and nature of lien; and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of lienors and lienees. Hdw., 1854-Sept. 19, 1894; typed Sept. 28, 1894-. 530 pp. 16 x 11 x 2½. 8 vols., 1854-Jan. 1933, recr. rec. rm.; 1 vol., Feb. 1933-, recr. off.

For original mechanics' liens, see entry 94-v.

90. SIRE LIEN RECORD, 1892-. 1 vol.

Record of liens executed to insure payment of stallion service fees, showing dates of service, recording, and satisfaction; names and addresses of lienor and lienee; name, registry number, and description of sire; description of dam; and amount of lien. Arr. chron. by dates of recording. Indexed alph. by names of lienors. Hdw. 316 pp. 18 x 12 x 1 $\frac{1}{4}$. Recr. rec. rm.

91. INHERITANCE TAX RECORD, 1915-. 1 vol.

Record of receipts issued for inheritance transfer tax payments, showing dates of receipt and recording, names of payer and estate, amount and description of inheritance, and amount of tax paid. Arr. chron. by dates of recording. Indexed alph. by names of estates. Hdw. 460 pp. 18 x 12 x 3. Recr. rec. rm.

For other inheritance tax records, see entries 194, 195, 310, 311.

92. ABSTRACT OF OLD-AGE ASSISTANCE CERTIFICATES FILED, 1936-. 1 vol.

Abstracts of certificates of award of old-age assistance establishing liens against property of recipients, showing date and time of filing; instrument, application code, and serial numbers; name of recipient; and date and amount of certificate of award. Arr. num. by application code nos. Indexed alph. by names of recipients. Hdw. 600 pp. 18 x 12 x 3. Recr. off.

For original certificates of award, see entry 93; for other old-age assistance records, see entries 328-330, 428-432.

93. OLD-AGE ASSISTANCE CERTIFICATES, 1936-. 1 f. d.

Duplicate certificates of award of old-age assistance establishing liens against property of recipients, showing information as in entry 92. Arr. num. by application code nos. No index. Hdw. 11 x 15 x 25. Recr. off.

For other old-age assistance records, see entries 328-330, 428-432.

94. BILLS OF SALE [Miscellaneous instruments], 1840-. 180 f. b. (numbered irregularly).

Original documents filed for recording and uncalled for, including:

- i. Articles and dissolutions of incorporations and associations, showing information as in entry 93.
- ii. Bills of sale of chattel and real property, showing dates of instrument and recording, names of principals, amount of consideration, description of

property, conditions of sale, and volume and page reference to recording.

- iii. Certificates of election of officers of churches, lodges, and societies, showing dates of certificate and recording, names of organization and office, name and address of officer, term of office, and volume and page reference to recording.
- iv. Leases on real property, showing information as in entry 96.
- v. Mechanics' liens, showing information as in entry 89.
- vi. Powers of attorney, showing information as in entry 97.

Arr. chron. by dates of instruments. No index. Hdw. and typed. 6 x 4 x 10. Recr. off.

95. [MISCELLANEOUS DOCUMENTS], 1850-. 2 f. b., 4 f. d. Original documents filed for recording and uncalled for, including:

- i. Deeds, 1851-, showing information as in entry 65.
- ii. Mortgage releases, continuances and assignments, 1876-, showing information as in entry 83.
- iii. Real estate mortgages, showing information as in entry 81.
- iv. Wills and testaments, 1891-, showing information as in entry 76.

Also contains: [Chattel Mortgages and Conditional Sales Contracts], 1860-June 14, 1935, entry 86. Arr. num. by instrument nos. No index. Hdw. and typed. F. b., 6 x 4 x 12; f. d., 4 x 24 x 12. Recr. off.

96. LEASE RECORD, 1868-. 9 vols. (1-9). 1837-67 in Deed Record, entry 65.

Transcripts of real property leases, showing dates of lease and recording, names of lessor and lessee, amount and conditions of lease, and location and description of property. Arr. chron. by dates of recording. Indexed alph. by names of lessors and lessees. Hdw., 1868-Apr. 5, 1897; typed, Apr. 17, 1897-. 576 pp. 18 x 12 x 3. 8 vols., 1868-Oct. 1939, recr. rec. rm.; 1 vol., Nov. 1939-, recr. off.

For original leases, see entry 94-iv.

97. POWER OF ATTORNEY, 1881-. 4 vols. (1-4). 1833-52 in Deed Record, entry 65; 1853-80 in Mortgage Record, entry 81.

Record of powers of attorney granted, showing dates of instrument and recording, names of grantor and grantee, and

term and conditions of authorization. Arr. chron. by dates of recording. Indexed alph. by names of grantors and grantees. Hdw., 1881-1907; typed, 1908-. 500 pp. 16 x 11 x 3. 3 vols., 1881-Apr. 1923, recr. rec. rm.; 1 vol., July 1923-, recr. off.

For original powers of attorney documents, see entry 94-vi.

98. MISCELLANEOUS RECORD, INCORPORATIONS, 1869-. 8 vols. (2, 4, 8-13). Title varies: Record of Incorporations, 1931-37, 1 vol.

Transcripts of articles and dissolutions of incorporations and associations, shewing dates of instrument, filing, and recording; name, type, and address of business; amount of capital stock; and names of directors and officers. Arr. chron. by dates of recordings. Indexed alph. by names of corporations or associations. Hdw., 1869-Dec. 19, 1907; typed, Dec. 21, 1907-. 576 pp. 18 x 12 x 3. 7 vols., 1869-Nov. 1937, recr. rec. rm.; 1 vol., Dec. 1937-, recr. off.

For original documents, see entry 94-i.

99. MISCELLANEOUS RECORD, AFFIDAVITS, 1895-. 9 vols. (6-14). 1828-94 in Deed Record, entry 65.

Transcripts of affidavits showing dates of affidavit and recording, names of affiant and witnesses, and nature of affidavit. Arr. chron. by dates of recording. Indexed alph. by names of affiants. Typed. 520 pp. 18 x 12 x 3. 8 vols., 1895-Apr. 13, 1940, recr. rec. rm.; 1 vol., Apr. 20, 1940-, recr. off.

100. MISCELLANEOUS RECORD, 1931-. 4 vols. (1-4). 1830-1930 in Deed Record, entry 65; 1853-1930 in Mortgage Record, entry 81.

Transcripts of miscellaneous documents, including:

- i. Agreements, showing dates of agreement and recording, names of principals, amount and conditions of agreement, and location and description of property.
- ii. Bills of sale, showing dates of sale and recording, names of vendor and purchaser, description and itemized list of property, and amount of sale.
- iii. Certificates of election of officers of churches, lodges, and societies, showing dates of election and recording; names of church, lodge, or society, and officer elected; and officer's title.
- iv. Contracts, showing dates of contract and recording, names of principals, location and description

of property, and amount and conditions of contract.

- v. Occasional recordings of appointments, bond affidavits, certificates of death and inheritance tax, official bonds, easements, landlord and tax liens, letters of administration and guardianship, board of directors' meetings, patents, petitions for sale of real estate, receiverships, and release of judgments, showing dates of documents and recording, names of principals, and nature and conditions of documents.

Arr. chron. by dates of recording. Indexed alph. by names of principals. Hdw. 550 pp. 18 x 12 x 3. 3 vols., 1931-Apr. 18, 1940, recr. rec. rm.; 1 vol., Apr. 18, 1940-, recr. off.

101. [STATISTICAL REPORTS], 1913-. 1 bdl.

Recorder's annual statistical report of all instruments recorded, showing date of report, number of instruments, and amounts of consideration and satisfaction. Arr. chron. by dates of reports. No index. Hdw. 1 x 4 x 12. Recr. off.

102. DISCHARGE RECORD, 1918-. 1 vol. 1866-1917 in Deed Record, entry 65.

Record of honorable discharges from U. S. military service, showing dates of enlistment, discharge, and recording; name, age, rank, color, address, and service record of veteran; physical condition when discharged; marital status; name of commanding officer; and serial number. Arr. chron. by dates of recording. Indexed alph. by names of veterans. Hdw. 800 pp. 16 x 12 x 3½. Recr. off.

103. APPRENTICES INDENTURES, 1833-99. 2 vols. (1. 1 vol. unlabeled). Discontinued.

Transcript of agreements to assume obligations of children's care and education in return for services performed, showing date and conditions of agreement; name, age, and race of child; and names and addresses of parents and master. Arr. chron. by dates of agreements. Indexed alph. by names of masters and children. Hdw. 375 pp. 18 x 12 x 2. Recr. rec. rm.

104. STOCK MARK RECORD, 1836-. 1 vol. Last entry, 1883.

Record of identification marks used to establish ownership of stock, showing date of recording, name of owner and township, and description of mark. Arr. by names of twps., there-under chron. by dates of recording. No index. Hdw. 300 pp. 12 x 7 x 1½. Recr. rec. rm.

FEE AND CASH RECORDS

105. FEE AND CASH BOOK, 1896-. 16 vols. 1827-95 in Entry Book, entry 63.

Record of fees collected for recording instruments, showing date of collection, name of payer, number and kind of instrument, amount of fee, total fees paid county, and date and amount paid treasurer. Arr. chron. by dates of collections. No index. Hdw. 320 pp. 18 x 12 x 3. 15 vols., 1896-1935, recr. rec. rm.; 1 vol., 1936-, recr off.

106. [REPORTS OF FEES], 1913-. 1 f. b.

Copies of quarterly reports to auditor of fees collected, showing date of report, number and kind of instrument, amount of fees for each kind of instrument, and total amount of fees due county. Arr. chron. by dates of reports. No index. Hdw. 10 x 4 x 12. Recr. off.

107. FEE DOCKET, 1866-71. 1 vol.

Record of fee bills issued to sheriff for collection, showing dates of issue, satisfaction, and return for recording; names of parties; and amount and number of bill. Arr. chron. by dates of issue. Indexed alph. by names of defendants. Hdw. 312 pp. 18 x 12 x 2. Recr. rec. rm.

MAPS

108. TIPPECANOE COUNTY, 1922. 1 map.

Land tenure and communication map, showing names of townships, rivers, creeks, cities, towns, property owners, and railroads; farm boundaries and acreage; boundaries and numbers of sections, townships, and ranges; rural route and state road numbers; county roads; forest reserves; and drainage system. Drawn by E. C. Minton, Lafayette, Ind. Black and white. No scale given. 48 x 60. Recr. off.

109. [PLAT OF LAFAYETTE], 1908. 1 map.

Copy of original plat of Lafayette, showing original town plat, divisions, street names, lot numbers, and official attest of surveyor. Black and white. Scale: 2" to 528'. 18 x 18. Recr. rec. rm.

V. CIRCUIT COURT

LEGAL STATUS

The circuit court, which has existed in Tippecanoe County ever since 1826 under the requirements of the Constitution

of 1816 and the Constitution of 1851, consists of one judge elected for a 6-year term by the voters of the judicial circuit.¹ Since March 15, 1877 Tippecanoe County alone has constituted the twenty-third judicial circuit.² The official name of the court is "Tippecanoe Circuit Court."³

The judge of the circuit court is commissioned by the Governor of Indiana⁴ and holds office until his successor is elected and qualified.⁵ For 3 years next before his candidacy for election the judge must have been duly admitted to practice law in Indiana and also must have practiced or taught law or acted as an officer of the state or a municipality therein during said time (the periods of practice, teaching, and holding office to be combined).⁶ During the term for which he was elected, the judge cannot hold any office of trust or profit under the state, other than a judicial office;⁷ and, while holding the office of judge of the circuit court, the judge must reside within the circuit,⁸ must not hold any other lucrative office,⁹ and must not practice law.¹⁰ He must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.¹¹

Statutes provide that the judge of the circuit court shall receive a regular salary in the amount of \$4,200 per year, payable monthly out of the state treasury, and that additional compensation, not exceeding \$2,800 per year, payable monthly out of the county treasury, may be allowed by the board of commissioners.¹² The constitution provides that an increase or decrease in the compensation of the judge

¹ Const. 1851, art. 7, secs. 1, 8, 9. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395. Acts 1925, 1929; Burns 4-3220; Baldwin 1258. See footnotes 17 and 18 herein.

² Before March 15, 1877 Tippecanoe County belonged to judicial circuits composed of more than one county. See footnote 31 herein.

³ Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1396.

⁴ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁵ Const. 1851, art. 15, sec. 3.

⁶ Acts 1839; Burns, 1940 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

⁷ Const. 1851, art. 7, sec. 16.

⁸ *Ibid.*, sec. 9.

⁹ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

¹⁰ Acts 1881 (Spec. Sess.), ch. 37, sec. 114. Acts 1905; Burns 10-3101; Baldwin 2635.

¹¹ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹² Acts 1921; Burns 4-2209; Baldwin 1225. Acts 1923; Burns 4-3213 to 4-3216; Baldwin 1233 to 1236.

cannot take effect until the expiration of the incumbent's term of office.¹³

If the judge be convicted of corruption or other high crime, he may, on an information in the name of the state, be removed from office by the supreme court.¹⁴ This is the only method by which the judge may be removed from office.¹⁵

Any vacancy in the office of judge of the circuit court is filled through appointment by the Governor. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified. The appointee holds office until January 1 next after the election of his successor.¹⁶

With the organization of Tippecanoe County in 1826,¹⁷ there was established in the county, as required by the mandatory provisions of the Constitution of 1816, a circuit court composed of a president judge and two associate judges. The president judge was elected for the circuit by joint ballot of both houses of the general assembly. The associate judges were elected in the county by the voters thereof.¹⁸ All judges were commissioned by the Governor and held office for the term of 7 years.¹⁹ Recess appointments of president judges were made by the Governor when the general assembly was not in session.²⁰ The president judge alone or any two judges could hold a court; but the presence of the president

¹³ Const. 1851, art. 7, sec. 13; art. 15, sec. 2 (as amended in 1926).

¹⁴ *Ibid.*, art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

¹⁵ State v. Dearth, 201 Ind. 1, 164 N. E. 489 (1929); State *ex rel.* Youngblood v. Warrick Circuit Court, 208 Ind. 594, 196 N. E. 254 (1935). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 29, 1939, by W. Davis Hamilton.

¹⁶ Const. 1851, art. 5, sec. 18. Acts 1925, 1929; Burns 4-3220; Baldwin 1258. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. State *ex rel.* Custer v. Schortemeier, 197 Ind. 507, 151 N. E. 407 (1926); State *ex rel.* Middleton v. Scott Circuit Court, 214 Ind. 643, 17 N. E. (2d) 464 (1938).

¹⁷ Acts 1825-26, ch. 10, sec. 1. (Tippecanoe organization act)

¹⁸ Const. 1816, art. 5, secs. 3, 7. Acts 1816-17, ch. 2, sec. 2; ch. 3, sec. 4; ch. 14, secs. 1, 8. Acts 1817-18 (general), ch. 2, sec. 2. Rev. L. 1824, ch. 24, sec. 2. Rev. L. 1831, ch. 22, sec. 2. Rev. Stat. 1838, ch. 23, sec. 2. Rev. Stat. 1843, ch. 38, secs. 1-4.

¹⁹ Const. 1816, art. 5, sec. 4; art. 11, sec. 9.

²⁰ *Ibid.*, art. 4, sec. 9.

was required in capital-punishment cases and cases in chancery. The president judge presided when he and one or both associate judges were present. The president judge could control the action of the court when he and one associate judge were present; and any two judges could control the action of the court when all three judges were present.²¹ Since the adoption of the Constitution of 1851, the circuit court has consisted of one judge elected by the voters of the judicial circuit for a 6-year term.²²

The circuit court existing under the Constitution of 1816 had original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace had exclusive original jurisdiction); all civil actions at law; all equity cases (including suits for divorce); insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration; and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. The associate judges were sometimes called "The Probate Court" when exercising their jurisdiction concerning decedents' estates.²³ Some of the original jurisdiction of this circuit court was transferred in 1829 to the probate court, which is discussed in a separate essay. This circuit court had appellate jurisdiction to review decisions of the board doing county business,²⁴ justices of the peace,²⁵ the probate

²¹ *Ibid.*, art. 5, sec. 3. Fuller v. State, 1 Blackf. 63 (1820); Cook v. State, 7 Blackf. 165 (1844); Miller v. Burger, 2 Ind. 337 (1850).

Adjournment for lack of quorum. Acts 1816-17, ch. 2, sec. 10.

²² Const. 1851, art. 7, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-301; Baldwin 1395.

²³ U. S. Stat., 2:153, 155 (law of 1802); 4:69 (law of 1824). Const. 1816, art. 5, sec. 3. Acts 1816-17, ch. 2, secs. 5-8; ch. 3, secs. 2, 3; ch. 4, sec. 19. Acts 1817-18 (general), ch. 2, secs. 5-7; chs. 3, 13. Acts 1821-22, ch. 73, sec. 4. Rev. L. 1824, ch. 24, secs. 4-6. Acts 1825, ch. 35, secs. 1-3. Rev. L. 1831, ch. 22, sec. 3. Rev. Stat. 1838, ch. 23, secs. 3-7, 12; ch. 31, sec. 1. Rev. Stat. 1843, ch. 35, secs. 22-72; ch. 38, secs. 6-32. Prentiss v. Porter, 1 Blackf. 525 (1822); Mills v. Bradley, 1 Blackf. 541 (1827); State v. Albertson, 2 Blackf. 251 (1829); Bequette v. Lasselle, 5 Blackf. 443 (1840); Sherry v. Winton, 1 Ind. 96 (1848).

²⁴ Rev. Stat. 1838, ch. 21, secs. 28, 29; ch. 41, sec. 12. Rev. Stat. 1843, ch. 7, secs. 37-43; ch. 11, sec. 11; ch. 16, sec. 56; ch. 17, sec. 18. Reddington v. Hamilton, 8 Blackf. 62 (1846); Taylor v. Lucas, 8 Blackf. 289 (1846); Malone v. Hardesty, 1 Ind. 79 (1848).

²⁵ Acts 1816-17, ch. 5, sec. 18. Rev. Stat. 1838, ch. 4, sec. 5; ch. 6, secs. 5, 11; ch. 19, sec.

court,²⁶ and the court of common pleas.²⁷ Decisions of this circuit court were reviewable by the Supreme Court of Indiana.²⁸

From 1829 until 1873 the circuit court had no jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians.²⁹ From 1867 until 1875 the circuit court had no original jurisdiction of criminal cases under the state laws.³⁰

From the organization of the Tippecanoe Circuit Court until the present time, Tippecanoe County has belonged to the following judicial circuits: 1826 until November 6, 1852, first circuit (Benton, Boone, Carroll, Cass, Clay, Clinton, Daviess, Fountain, Greene, Jasper, Knox, LaPorte, Martin, Montgomery, Newton, Owen, Orange, Parke, Putnam, St. Joseph, Sullivan, Tippecanoe, Vermillion, Vigo, Wabash, Warren, and White); November 6, 1852 until February 9, 1855, eighth circuit, (Benton, Boone, Clinton, Fountain, Jasper, Montgomery, Parke, Tippecanoe, Vermillion, and Warren); February 9, 1855 until March 6, 1873, twelfth circuit (Benton, Jasper, Newton, Tippecanoe, and White); March 6, 1873 to date, twenty-third circuit (Tippecanoe and White). Every county which was in the designated circuits at any time during the designated periods is shown above. There were numerous transfers of counties to and from those circuits during those periods. Ever since March 15, 1877 Tippecanoe County alone has constituted the twenty-third circuit. Before March 15, 1877 Tippecanoe County belonged to judicial circuits composed of more than one county.³¹

16; ch. 43, sec. 6; ch. 58, secs. 11, 80, 90; ch. 79, sec. 21. Rev. Stat. 1843, ch. 19, secs. 23, 46; ch. 23, sec. 10; ch. 35, sec. 162; ch. 41, secs. 11, 42, 43; ch. 42, sec. 63; ch. 43, secs. 9-13; ch. 45, secs. 173-176, 193, 216; ch. 47, secs. 159-182; ch. 55, sec. 21.

²⁶ See the essay entitled "Probate Court (1829-53)."

²⁷ See the essay entitled "Court of Common Pleas (1848-52)."

²⁸ Acts 1816-17, ch. 1, secs. 7, 13. Acts 1817-18 (general), ch. 1, secs. 7, 13. Rev. L. 1824, ch. 25, sec. 7. Rev. L. 1831, ch. 24, sec. 7. Rev. Stat. 1838, ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70, 91.

²⁹ See the essays entitled "Probate Court (1829-53)" and "Court of Common Pleas (1853-73)."

³⁰ See the essay entitled "Criminal Circuit Court (1867-75)."

³¹ Rev. L. 1824, ch. 26, sec. 1. Acts 1825, ch. 15, sec. 7. Acts 1826-27, ch. 11, sec. 8; ch.

FUNCTIONS AND RECORDS

The circuit court has original jurisdiction of naturalization proceedings under the Federal laws; all criminal cases under the state laws (except those punishable only by fine not exceeding \$3, of which the justices of the peace have exclusive original jurisdiction); proceedings to punish the violators of town ordinances; all civil actions at law; all suits in equity;⁸² divorce and alimony proceedings;⁸³ declaratory judgment proceedings;⁸⁴ juvenile matters;⁸⁵ insanity inquests and commitments;⁸⁶ election contests;⁸⁷ proceedings for removal of

18, sec. 1. Acts 1827-28, ch. 18, sec. 2. Acts 1829-30, ch. 21, secs. 4, 6; ch. 25, sec. 6; ch. 28 (first act), sec. 1; ch. 23, sec. 15. Rev. L. 1831, ch. 23, sec. 1. Acts 1831-32, ch. 157, sec. 1. Acts 1832-33, ch. 3, sec. 1. Acts 1833-34, ch. 30, sec. 6; ch. 37, sec. 1. Rev. Stat. 1838, ch. 23 (third act), secs. 1, 3. Acts 1838-39 (general), ch. 2, sec. 1; ch. 19, sec. 5; ch. 129, secs. 1, 3. Acts 1839-40 (general), ch. 25, sec. 1; ch. 40, sec. 6. Acts 1840-41 (general), ch. 25, sec. 1. Acts 1841-42 (general), ch. 28, sec. 1. Acts 1851-52, ch. 21, sec. 8; ch. 27, sec. 1. Acts 1853, ch. 23, sec. 4. Acts 1855, ch. 25, sec. 1. Acts 1861, ch. 19, sec. 1. Acts 1873, ch. 29, sec. 24. Acts 1875, ch. 32, sec. 1. Acts 1877 (Spec. Sess.), ch. 11, sec. 1.

⁸² Acts 1881 (Spec. Sess.); Burns 4-302; Baldwin 1397. *State ex rel. Robertson v. Lake Circuit Court*, 215 Ind. 18, 17 N. E. (2d) 805 (1939).

Legislature's power to prescribe jurisdiction. *Board of County Comrs. v. Albright*, 168 Ind. 564, 81 N. E. 578 (1907).

Naturalization proceedings. U. S. Stat., 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913).

Criminal cases within exclusive jurisdiction of justices of the peace. Acts 1905; Burns 9-711, 9-715; Baldwin 2080, 2084.

Proceedings to punish violators of town ordinances. Acts 1905; Burns 48-401; Baldwin 11359.

"Courts are bound to declare the law to be that which the General Assembly, acting within its constitutional power, enacts, be it wise or foolish as measured by our personal views, and even though it shocks our sense of justice and fairness." *State v. Brown*, 213 Ind. 113, 124, 11 N. E. (2d) 679 (1937).

⁸³ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1873, 1933; Burns 3-1203, 3-1217; Baldwin 904, 926. Acts 1903; Burns 3-1232; Baldwin 935. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. *McHie v. McHie*, 106 Ind. App. 152, 16 N. E. (2d) 987 (1938).

⁸⁴ Acts 1927; Burns 3-1161 to 3-1116; Baldwin 438-453.

⁸⁵ Acts 1867, ch. 67 (misnumbered 62), secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58. Acts 1903, 1913, 1931, 1935, 1937; Burns, 1940 suppl., 9-2801; Baldwin, 1937 suppl., 1759. *Dumes v. Deckard*, 105 Ind. App. 674, 17 N. E. (2d) 481 (1935).

⁸⁶ 2 Rev. Stat. 1852, Acts 1835; Burns 8-292 *et seq.*; Baldwin 3460 *et seq.* Acts 1855; Burns 22-1401 *et seq.*; Baldwin 1031 *et seq.* Acts 1939; Burns, 1940 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

⁸⁷ Acts 1933, 1935; Burns, 1940 suppl., 29-2301 to 29-2309; Baldwin, 1935 suppl., 7428 to 7435, 7427-1. *State ex rel. Lord v. Sullivan*, 214 Ind. 279, 15 N. E. (2d) 384 (1938).

county officers;³⁸ quo warranto proceedings;³⁹ proceedings for mandate, prohibition,⁴⁰ and injunction;⁴¹ proceedings to quiet title to real estate;⁴² partition proceedings;⁴³ next of kin proceedings;⁴⁴ habeas corpus proceedings;⁴⁵ proceedings to commit persons to hospitals operated by Indiana University;⁴⁶ eminent domain proceedings;⁴⁷ proceedings to establish drainage districts and assessments;⁴⁸ proceedings for change of names of persons;⁴⁹ adoption proceedings;⁵⁰ receiverships;⁵¹ bastardy proceedings;⁵² guardianships;⁵³ probate of wills;⁵⁴ and administration of estates of decedents,⁵⁵ minors, and insane persons.⁵⁶ The circuit court

³⁸ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 3. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13165, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

³⁹ Acts 1881 (Spec. Sess.), 1929; Burns 3-2001 to 3-2016; Baldwin 1045, 1046, 1054, 1047 to 1053, 1055 to 1060.

⁴⁰ Acts 1881 (Spec. Sess.), 1911, 1915, 1933; Burns 3-2201 to 3-2208; Baldwin 1090 to 1093, 1095, 1095-1, 1096, 1097.

⁴¹ Acts 1881 (Spec. Sess.), 1899; Burns 3-2101 to 3-2120; Baldwin 1061 to 1060.

⁴² Acts 1881 (Spec. Sess.), 1911, 1915; Burns 3-1401 to 3-1410; Baldwin 906, 3303, 3304, 967, 942, 943, 970, 969, 968, 968 note. Acts 1935; Burns, 1940 suppl., 3-1417, 3-1418; Baldwin, 1935 suppl., 558-1, 558-2.

⁴³ 2 Rev. Stat. 1852, Acts 1881 (Spec. Sess.), 1897; Burns 3-2401 *et seq.*; Baldwin 1106 *et seq.*

⁴⁴ Acts 1881 (Spec. Sess.); Burns 3-2301 to 3-2307; Baldwin 1102, 1105, 1098, 1099, 1100, 1101, 1103.

⁴⁵ Acts 1881 (Spec. Sess.); Burns 3-1901 to 3-1925; Baldwin 1020 *et seq.* *Kunkel v. Moneyhon*, 214 Ind. 606, 17 N. E. (2d) 82 (1938).

⁴⁶ Acts 1939; Burns, 1940 suppl., 28-5417; Baldwin, 1939 suppl., 14078-89c.

⁴⁷ Acts 1905, 1935; Burns, 1940 suppl., 3-1702; Baldwin, 1935 suppl., 14062. Acts 1905; Burns 3-1707; Baldwin 14068.

⁴⁸ Acts 1933; Burns 27-104, 27-109, 27-116, 27-122, 27-134; Baldwin 5740, 5745, 5752, 5758, 5770. *Penn. v. Ducomb*, 213 Ind. 133, 12 N. E. (2d) 116 (1938).

⁴⁹ 2 Rev. Stat. 1852, 1905; Burns 3-801 to 3-805; Baldwin 869 to 873.

⁵⁰ Acts 1855, 1883; Burns 3-101, 3-103; Baldwin 681, 684.

⁵¹ Acts 1881 (Spec. Sess.); Burns 3-2601 *et seq.*; Baldwin 1143 *et seq.*

⁵² 2 Rev. Stat. 1852; Burns 3-606 to 3-614, 3-616; Baldwin 851, 855, 856, 859, 852, 854, 857, 858, 860, 865. 2 Rev. Stat. 1852, Acts 1877, 1935; Burns, 1940 suppl., 3-605, 3-615; Baldwin, 1935 suppl., 850, 861.

⁵³ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. 2 Rev. Stat. 1852; Burns 8-101 *et seq.*; 8-201 *et seq.*; Baldwin 3418 *et seq.*; 3459 *et seq.* Acts 1911; Burns 8-301 *et seq.*; Baldwin 3472 *et seq.* Acts 1867; Burns 8-401 to 8-403; Baldwin 3476 to 3478.

⁵⁴ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. 2 Rev. Stat. 1852; Burns 7-401, 7-414, 7-503, 7-506; Baldwin 3376, 3388, 3393, 3401. Acts 1911, 1921, 1933; Burns 7-504; Baldwin 3395.

⁵⁵ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

⁵⁶ See footnotes 36 and 53 herein.

is known as the "Juvenile Court" when exercising jurisdiction of juvenile matters.⁵⁷ In connection with its jurisdiction to administer decedents' estates, the court administers certain provisions of the inheritance tax laws.⁵⁸

The circuit court has appellate jurisdiction⁵⁹ to review decisions of justices of the peace;⁶⁰ city courts;⁶¹ board of commissioners;⁶² board of commissioners and county council acting jointly concerning condemnation of schoolhouses;⁶³ board of review fixing value of property for taxation;⁶⁴ taxing authorities determining that property is taxable;⁶⁵ board of public works or board of park commissioners of any city in the county (or city council performing such functions);⁶⁶ and other inferior tribunals when no express direction is given as to the court to which the appeal lies.⁶⁷

The circuit court has power to make all proper judgments, sentences, decrees, orders, and injunctions; to punish for contempt; to issue all process necessary for the exercise of its jurisdiction (including process to inferior courts);⁶⁸ and to adopt rules for conducting its business.⁶⁹ Decisions of the circuit court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.⁷⁰

The judge of the circuit court is a conservator of the

⁵⁷ See footnote 35 herein.

⁵⁸ Acts 1931, 1933; Burns 6-2408, 6-2410, 6-2413, 6-2415; Baldwin 15946, 15948, 15951, 15953. Acts 1931, 1933, 1937; Burns, 1940 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

⁵⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397.

⁶⁰ 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

⁶¹ Acts 1905; Burns 4-2415; Baldwin 2390. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1921; Burns 4-2702; Baldwin 12172. Acts 1923; Burns 4-2802; Baldwin 12336.

⁶² Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1933; Burns 27-117; Baldwin 5753. Acts 1905; Burns 36-1501; Baldwin 8858. State *ex rel.* Sink v. Cass Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

⁶³ Acts 1931; Burns 28-3005; Baldwin 6147.

⁶⁴ Acts 1927; Burns 64-1020; Baldwin 15686.

⁶⁵ Acts 1919, 1927; Burns 64-2103; Baldwin 15804.

⁶⁶ Acts 1933; Burns 48-4501; Baldwin 11576.

⁶⁷ Hamilton v. Fort Wayne, 73 Ind. 1 (1880).

⁶⁸ 2 Rev. Stat. 1852; Burns 4-305 to 4-307, 4-312; Baldwin 1398 to 1400, 1405.

Contempt. Universal Credit Co. v. Talcott, 213 Ind. 228, 12 N. E. (2d) 141 (1938).

⁶⁹ 2 Rev. Stat. 1852; Burns 4-313; Baldwin 1406.

⁷⁰ 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356.

peace throughout his judicial circuit,⁷¹ and takes all necessary recognizances to keep the peace "or to answer any criminal charge or offense in the court having jurisdiction."⁷² He is a member of the commission of public records.⁷³ He appoints one member of the county school fund board,⁷⁴ five members of the county board of public welfare,⁷⁵ two members of the county board of review,⁷⁶ and two members of the county board of tax adjustment.⁷⁷ He appoints eight members of the county hospital governing board,⁷⁸ three members of the county public library board,⁷⁹ and five trustees of a sanitary district,⁸⁰ when such boards and district exist in the county. He may appoint two tobacco inspectors for the county,⁸¹ special prosecuting attorneys (in case of disqualification or failure to attend court),⁸² special county commissioners (in case of disqualification),⁸³ and attorneys to represent poor persons in the circuit court.⁸⁴ Under the provisions of an act of 1939 he may appoint magistrates for a court to be known as "The Magistrates Court of Tippecanoe County," but no such magistrates have been appointed.⁸⁵ He approves the official bonds of the prosecuting attorney,⁸⁶

⁷¹ Const. 1816, art. 5, sec. 5. Const. 1851, art. 7, sec. 15.

⁷² 2 Rev. Stat. 1852; Burns 4-314; Baldwin 1407. *State v. Cooper*, 90 Ind. 575 (1883).

⁷³ Acts 1939; Burns, 1940 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

⁷⁴ Acts 1865, 1935; Burns, 1940 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁷⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

⁷⁶ Acts 1895, ch. 36, sec. 2. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷⁷ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷⁸ Acts 1903, 1939; Burns, 1940 suppl., 22-3203; Baldwin, 1939 suppl., 4509.

⁷⁹ Acts 1917, 1921, 1927, 1939; Burns, 1940 suppl., 41-510; Baldwin, 1939 suppl., 10321.

⁸⁰ Acts 1913, 1919, 1931; Burns 48-4102; Baldwin 11721.

⁸¹ Acts 1857; Burns 67-308; Baldwin 9461.

⁸² Rev. L. 1824, ch. 24, sec. 12. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State*, 197 Ind. 401, 141 N. E. 52 (1926); *State ex rel. Williams v. Ellis*, 184 Ind. 307, 112 N. E. 98 (1916); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

⁸³ Acts 1913; Burns 26-614 to 26-616; Baldwin 5229 to 5231.

⁸⁴ Acts 1881 (Spec. Sess.); Burns 2-211; Baldwin 26. Acts 1913; Burns 2-1417; Baldwin 199. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

⁸⁵ Acts 1939; Burns, 1940 suppl., 4-3802; Baldwin, 1939 suppl., 2008-2.

⁸⁶ 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

the county director of public welfare,⁸⁷ and collection agencies.⁸⁸ He makes certificates of "qualification and moral character" concerning persons applying to the Governor for appointments as notaries public.⁸⁹ He can solemnize marriages,⁹⁰ administer oaths,⁹¹ take acknowledgments and proofs of deeds and other documents,⁹² waive certain provisions of the marriage license law requiring laboratory tests and medical certificates,⁹³ issue licenses for carrying pistols,⁹⁴ and certify as to the authenticity of transcripts of the records and proceedings of the court.⁹⁵

In pursuance of appropriations by the county council,⁹⁶ the judge of the circuit court may make allowances against the county for expense of administration of justice.⁹⁷ Such allowances include compensation of witnesses,⁹⁸ jurors,⁹⁹ master commissioners,¹⁰⁰ sheriff,¹⁰¹ bailiffs,¹⁰² court reporter,¹⁰³ court page,¹⁰⁴ and attorneys appointed to represent poor persons.¹⁰⁵

⁸⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

⁸⁸ Acts 1937; Burns, 1940 suppl., 10-5001; Baldwin, 1937 suppl., 2463-5.

⁸⁹ 1 Rev. Stat. 1852, Acts 1855; Burns 49-3503; Baldwin 13016.

⁹⁰ Acts 1897; Burns 44-301; Baldwin 5621.

⁹¹ 2 Rev. Stat. 1852; Burns 4-312; Baldwin 1405. Acts 1861; Burns 49-601; Baldwin 13053.

⁹² 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

⁹³ Acts 1939; Burns, 1940 suppl., 44-213; Baldwin, 1939 suppl., 5624-1.

⁹⁴ Acts 1935, 1937; Burns, 1940 suppl., 10-4738; Baldwin, 1937 suppl., 2569-5.

⁹⁵ Acts 1881 (Spec. Sess.); Burns 2-1605, 2-1617, 2-3106; Baldwin 273, 258, 459. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520; Baldwin 392. Acts 1903, 1933; Burns 2-3112; Baldwin 466. 2 Rev. Stat. 1852; Burns 4-307; Baldwin 1400. Acts 1905; Burns 9-2103; Baldwin 2315.

⁹⁶ Acts 1899; Burns 26-515, 26-527; Baldwin 5379, 5391.

⁹⁷ Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128.

Change of venue from county. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236.

Blank books and stationery. 2 Rev. Stat. 1852; Burns 49-2709; Baldwin 1436.

⁹⁸ 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306.

⁹⁹ Acts 1881 (Spec. Sess.), 1913, 1927, 1933; Burns 4-3319; Baldwin 1277.

¹⁰⁰ Acts 1881 (Spec. Sess.), 1903; Burns 4-3407; Baldwin 1286.

¹⁰¹ Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570.

Change of venue from county. Acts 1905; Burns 9-1315; Baldwin 2236.

¹⁰² Acts 1921, 1935; Burns, 1940 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. *Opinions of the Attorney General of Indiana, 1939*, p. 312.

¹⁰³ Acts 1921, 1939; Burns, 1940 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300.

¹⁰⁴ *Opinions of the Attorney General of Indiana, 1939*, p. 312.

¹⁰⁵ Acts 1881 (Spec. Sess.); Burns 2-211, 2-212; Baldwin 26, 27. Acts 1905; Burns 9-1314; Baldwin 2235. *Opinions of the Attorney General of Indiana, 1939*, p. 351.

An act of 1941 provides for three terms of court each year in Tippecanoe County. The January term begins on the 1st Monday in January and continues until the last Saturday before the 1st Monday in April. The April term begins on the 1st Monday in April and continues until the 4th Saturday in June. The September term begins on the 2d Monday in September and continues until the Saturday next preceding the 25th day of December.¹⁰⁶ Many laws were enacted by the legislature before 1941 for the purpose of regulating the commencement and duration of terms of court in Tippecanoe County.¹⁰⁷

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.¹⁰⁸

If for 9 months the regular judge is incapable (on account of sickness, mental incapacity, or otherwise) of discharging his duties, and the clerk certifies the facts to the secretary of state, the Governor may appoint some practicing attorney within the circuit to serve as judge *pro tempore* during the continuance of the disability of the regular judge.¹⁰⁹

If the regular judge is disqualified in any particular cause by prejudice, relationship, or interest, and no party objects to the regular judge making nominations for a special judge, the regular judge may designate the names of three other judges or attorneys, and the plaintiff and defendant may each strike one of such names. The person whose name

¹⁰⁶ Acts 1941, ch. 6, sec. 1.

¹⁰⁷ Acts 1826-27, ch. 18, sec. 1. Acts 1827-28, ch. 18, sec. 3. Acts 1828-29, ch. 25, sec. 4. Acts 1829-30, ch. 28 (second act), sec. 1. Rev. L. 1831, ch. 23, sec. 2. Acts 1832-33, ch. 67, sec. 1. Acts 1833-34, ch. 33, sec. 1. Acts 1835-36 (general), ch. 5, sec. 1. Rev. Stat. 1838, ch. 23 (third act), sec. 2. Acts 1838-39 (general), ch. 2, sec. 2. Acts 1839-40 (general), ch. 25, sec. 3. Acts 1840-41 (general), ch. 12, sec. 1. Acts 1841-42 (general), ch. 17, sec. 1. Acts 1842-43 (general), ch. 2, sec. 1. Acts 1843-44 (general), ch. 14, sec. 1. Acts 1844-45 (general), ch. 74, sec. 1. Acts 1848-49 (general), ch. 38, sec. 1. Acts 1851-52, ch. 22. Acts 1853, ch. 26, secs. 1, 2. Acts 1855, ch. 22, secs. 1, 2; ch. 25, sec. 2. Acts 1859, ch. 34, sec. 1. Acts 1861, ch. 19, sec. 1. Acts 1865, ch. 28, sec. 1. Acts 1871, ch. 28, sec. 1. Acts 1872 (Spec. Sess.), ch. 11, secs. 1, 2. Acts 1873, ch. 29, sec. 62. Acts 1875, ch. 32, sec. 3. Acts 1893, ch. 6, sec. 1.

¹⁰⁸ 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1855; Burns 4-317; Baldwin 1423. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

¹⁰⁹ Acts 1871; Burns 4-317 to 4-319; Baldwin 1423 to 1425.

remains after such striking may serve as special judge in that particular cause. If a party objects to the regular judge making such nominations, the clerk certifies the facts to the clerk of the supreme court, who, acting under the direction of the supreme court, selects the names of three persons; and each party may strike one name as aforesaid. If the parties agree on the selection of a special judge, the regular judge will appoint the person thus selected.¹¹⁰

The judge of the third judicial district of the Supreme Court of Indiana (H. Nathan Swaim) may preside at the trial of any case pending in Tippecanoe Circuit Court when the judge of the latter court is "incompetent to preside."¹¹¹

Causes pending in the circuit court which could have been commenced in the Tippecanoe Superior Court may be transferred by the circuit court to the superior court.¹¹²

Any cause pending in the superior court in which the judge of the superior court is interested must be transferred to the circuit court when no special judge is obtained for hearing and disposition in the superior court.¹¹³

The sheriff, in person or by deputy, attends the circuit court, preserves order therein, makes announcements for the court, calls witnesses to the courtroom, and executes all process of the court.¹¹⁴ Bailiffs (appointed by the judge as needed) wait on the grand juries and petit juries and preserve order during their proceedings and deliberations. If no bailiff is appointed, the sheriff or his deputy performs these duties.¹¹⁵ In the event of the absence, personal

¹¹⁰ 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 3, 4. Acts 1905, 1907; Burns 2-1409; Baldwin 207. Acts 1937; Burns, 1940 suppl., 2-1424 to 2-1430, 9-1316 to 9-1325; Baldwin, 1937 suppl., 207-1 to 207-5, 194-1, 2223-1, 2222-1 to 2222-5, 2223-2 to 2223-5. State *ex rel.* Daily v. Harrison, 215 Ind. 106, 18 N. E. (2d) 770 (1939).

¹¹¹ Acts 1872 (Spec. Sess.); Burns 4-102; Baldwin 1308. 2 Rev. Stat. 1852; Burns 4-113; Baldwin 1321. *Roster of State and Local Officials of the State of Indiana, 1940*, p. 8. Interview of April 26, 1940 with Paul Stump, clerk of the supreme court.

¹¹² Acts 1905; Burns 4-304; Baldwin 1419 note.

¹¹³ Acts 1875; Burns 4-1916; Baldwin 1638-16.

¹¹⁴ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494. See the essay entitled "Sherriff."

¹¹⁵ 1 Rev. Stat. 1852, ch. 3, sec. 4. 2 Rev. Stat. 1952, pt. 1, ch. 6, sec. 4. Acts 1879, ch. 51, sec. 26. Acts 1881 (Spec. Sess.), ch. 36, sec. 353; ch. 50, sec. 1. Acts 1895, ch. 145, sec. 122. Acts 1899, chs. 83, 112. Acts 1905, ch. 155. Acts 1915, ch. 172. Acts 1919, ch. 134. Acts 1921, ch. 146. Acts 1921, 1935; Burns, 1940 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1905; Burns 9-1501, 9-1810; Baldwin 2246, 2290. Adams v. State, 214 Ind. 603, 17 N. E. (2d) 84 (1938). *Opinions of the Attorney General of Indiana, 1939*, p. 312.

interest, or incapacity of the sheriff, or vacancy in his office, the coroner performs these duties of the sheriff;¹¹⁶ and in the event also of the absence, personal interest, or incapacity of the coroner, or vacancy in his office, the judge appoints an elisor to perform these duties of the sheriff.¹¹⁷

The prosecuting attorney acts as attorney for the state in criminal cases under state laws and as attorney for the county and state in certain civil cases.¹¹⁸

The probation officer (appointed by the judge for an indefinite term when needed) makes investigations and reports in criminal and juvenile matters as directed by the court, and supervises the conduct of persons on probation.¹¹⁹ The county director of public welfare performs duties of the probation officer when so directed by the court.¹²⁰

The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or the parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.¹²¹

Two jury commissioners (annually appointed by the judge) prepare lists of names from which grand juries and petit juries are drawn.¹²²

The court page (appointed by the judge for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.¹²³

¹¹⁶ 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

¹¹⁷ 2 Rev. Stat. 1852; Burns 4-322, 4-323; Baldwin 1411, 1412.

¹¹⁸ 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. *Freed v. Martin* Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938). See the essay entitled "Prosecuting Attorney."

¹¹⁹ Acts 1903, ch. 237, sec. 2. Acts 1925, ch. 218. Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364. See the essay entitled "Probation Officer."

¹²⁰ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21. See the essay entitled "County Department of Public Welfare."

¹²¹ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

¹²² Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3306; Baldwin 1266, 1270. Acts 1881 (Spec. Sess.), 1939; Burns, 1940 suppl., 4-3304; Baldwin, 1939 suppl., 1267. *Crickmore v. State*, 213 Ind. 586, 12 N. E. (2d) 266 (1938); *Johnson v. State*, 213 Ind. 659, 14 N. E. (2d) 96 (1938); *Foreman v. State*, 214 Ind. 79, 14 N. E. (2d) 546 (1938). See the essay entitled "Jury Commissioners."

¹²³ *Dunn v. State ex rel. Corydon*, 204 Ind. 390, 184 N. E. 535 (1933). *Opinions of the Attorney General of Indiana, 1939*, p. 312.

The clerk of the circuit court, in person or by deputy, performs numerous duties for the circuit court. All new actions and proceedings of the circuit court are filed in the office of the clerk, and are numbered in consecutive order as filed.¹²⁴ He is charged by statute with the duty of keeping and preserving the official records of the court.¹²⁵

The clerk files pleadings and other court papers and endorses thereon the time of such filing.¹²⁶ He issues summonses,¹²⁷ notices for service by publication,¹²⁸ attachment writs,¹²⁹ garnishment writs,¹³⁰ replevin writs,¹³¹ ejectment writs,¹³² habeas corpus writs,¹³³ warrants,¹³⁴ commitments,¹³⁵ executions,¹³⁶ witness subpoenas,¹³⁷ letters of

¹²⁴ Acts 1881 (Spec. Sess.); Burns 2-1053; Baldwin 158. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433. See the essay entitled "Clerk of the Circuit Court."

¹²⁵ 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹²⁶ Acts 1816-17, ch. 2, sec. 12; ch. 4, sec. 28; ch. 5, secs. 1, 2, 18. Acts 1817-18 (general), ch. 4, sec. 17. Rev. L. 1824, ch. 73, secs. 1, 7, 15, 27; ch. 74, sec. 1, 18-21, 33, 41; ch. 79, secs. 8, 38. Rev. Stat. 1843, ch. 38, sec. 49. Acts 1881 (Spec. Sess.); Burns 2-802, 2-1641; Baldwin 83, 288. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Indictment. Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126.

¹²⁷ Acts 1816-17, ch. 2, sec. 8; ch. 4, sec. 5. Acts 1817-18 (general), ch. 60, sec. 3; ch. 61, sec. 3. Rev. L. 1824, ch. 24, sec. 7; ch. 73, secs. 1, 2, 10, 22; ch. 74, secs. 2, 3, 9-11, 24. Acts 1881 (Spec. Sess.); Burns 2-802; Baldwin 83.

Summonses in criminal cases. Acts 1905, 1937; Burns, 1940 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1013; Baldwin 2138.

¹²⁸ Rev. L., 1824, ch. 73, sec. 3. Acts 1881 (Spec. Sess.), 1885, 1935; Burns, 1940 suppl., 2-807; Baldwin, 1935 suppl., 88.

¹²⁹ Rev. L. 1831, ch. 6, sec. 1. Acts 1881 (Spec. Sess.); Burns 3-509; Baldwin 777.

¹³⁰ Acts 1881 (Spec. Sess.), 1897; Burns 3-522; Baldwin 791.

¹³¹ Acts 1881 (Spec. Sess.); Burns 3-2703, 3-2704; Baldwin 1200, 1201.

¹³² Acts 1927; Burns 3-1305; Baldwin 945.

¹³³ Acts 1881 (Spec. Sess.); Burns 3-1909; Baldwin 1044.

¹³⁴ Acts 1905, 1937; Burns, 1940 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1905; Burns 9-1003, 9-2237; Baldwin 2136, 2347.

¹³⁵ Acts 1905, 1939; Burns, 1940 suppl., 9-725; Baldwin, 1939 suppl., 2094. Acts 1905, 1927; Burns 9-2223; Baldwin 2335.

¹³⁶ Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 1. Rev. L. 1824, ch. 10, sec. 1; ch. 74, sec. 55. Acts 1881 (Spec. Sess.); Burns 2-3301 to 2-3314; Baldwin 523, 526, 525, 527, 521, 522, 531, 532, 427, 528 to 530, 535, 524. Acts 1905; Burns 9-2226; Baldwin 2332.

¹³⁷ Acts 1816-17, ch. 4, sec. 12. Rev. L. 1824, ch. 74, sec. 16. Acts 1881 (Spec. Sess.); Burns 2-1701; Baldwin 289.

guardianship.¹³⁸ letters testamentary, and letters of administration.¹³⁹ He takes depositions of witnesses;¹⁴⁰ approves and files judicial bonds,¹⁴¹ including bonds of executors, administrators,¹⁴² and guardians;¹⁴³ administers and files the official oaths of executors, administrators,¹⁴⁴ and guardians;¹⁴⁵ and performs the statutory and customary duties of clerk at trials.¹⁴⁶

The clerk keeps dockets, order books, judgment records, final record books,¹⁴⁷ inheritance tax record,¹⁴⁸ receivership records,¹⁴⁹ guardianship records,¹⁵⁰ records concerning

¹³⁸ 2 Rev. Stat. 1852; Burns 8-101; Baldwin 3418. State *ex rel.* Cecil v. Christian. 13 Ind. App. 308, 41 N. E. 603 (1895).

¹³⁹ Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. L. 1824, ch. 79, sec. 4. Acts 1881 (Spec. Sess.), 1901; Burns 6-201, 6-301; Baldwin 3025, 3030. McCool v. Old National Bank in Evansville, 214 Ind. 679, 17 N. E. (2d) 820 (1938).

¹⁴⁰ Acts 1881 (Spec. Sess.); Burns 2-1501; Baldwin 211.

¹⁴¹ Acts 1816-17, ch. 4, sec. 36; ch. 5, sec. 18. Acts 1817-18 (general), ch. 13, sec. 19. Rev. L. 1824, ch. 5, sec. 24; ch. 74, sec. 13; ch. 79, sec. 2. Rev. L. 1831, ch. 6, secs. 1, 26. Acts 1881 (Spec. Sess.); Burns 2-3209, 2-3402, 3-303, 3-508, 3-519, 6-501, 6-1506, 6-2001; Baldwin 484, 538, 726, 776, 788, 3048, 3229, 3277. 2 Rev. Stat. 1852; Burns 7-502; Baldwin 3396. 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421.

Releasing cost bond. *Opinions of the Attorney General of Indiana, 1939*, p. 9.

¹⁴² Acts 1881 (Spec. Sess.), 1939; Burns, 1940 suppl., 6-501, 6-1128; Baldwin, 1939 suppl., 3048, 3169. Acts 1881 (Spec. Sess.); Burns 6-502, 6-804; Baldwin 3049, 3085.

¹⁴³ 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

¹⁴⁴ Acts 1881 (Spec. Sess.), 1939; Burns, 1940 suppl., 6-501; Baldwin, 1939 suppl., 3048.

¹⁴⁵ 2 Rev. Stat. 1852, Acts 1857, 1881 (Spec. Sess.); Burns 8-104; Baldwin 3421. 2 Rev. Stat. 1852, Acts 1895; Burns 8-204; Baldwin 3461. Acts 1867; Burns 8-402; Baldwin 3477.

¹⁴⁶ Acts 1816-17, ch. 3, sec. 3. Rev. L. 1824, ch. 10, sec. 1. Rev. L. 1831, ch. 15, sec. 1. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁴⁷ Acts 1816-17, ch. 2, sec. 12; ch. 4, secs. 1, 11, 12, 28, 32. Acts 1817-18 (general), ch. 3, sec. 11. Rev. L. 1824, ch. 73, sec. 15; ch. 74, secs. 15, 33, 55. Rev. Stat. 1843, ch. 33, secs. 48, 51; ch. 40, secs. 189, 367, 487. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 358. Acts 1881 (Spec. Sess.), 1929; Burns 2-1103, 2-2520, 2-3314; Baldwin 179, 392, 524. 2 Rev. Stat. 1852, Acts 1885 (Spec. Sess.), 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

Docketing appeals. Acts 1881 (Spec. Sess.); Burns 2-3226; Baldwin 500.

¹⁴⁸ Acts 1913, ch. 47, secs. 17, 18. Acts 1931, 1933, 1937; Burns, 1940 suppl., 6-2407; Baldwin, 1937 suppl., 15945.

¹⁴⁹ Acts 1911; Burns 3-2607; Baldwin 1147.

¹⁵⁰ Acts 1846-47 (general), ch. 54, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3288. Acts 1889; Burns 8-137; Baldwin 3424.

the administration of decedents' estates,¹⁵¹ and records of redemptions from judicial sales.¹⁵² He files and records orders, judgments,¹⁵³ indictments,¹⁵⁴ recognizances,¹⁵⁵ notices of lis pendens,¹⁵⁶ probated wills,¹⁵⁷ inventories and accounts of trustees,¹⁵⁸ sheriff's certificates of sale of real estate,¹⁵⁹ and warrants issued by the state department of treasury for the collection of gross income taxes.¹⁶⁰

The clerk makes arrangements for the admission of feeble-minded persons to the Fort Wayne State School or the Muscatatuck Colony, after the judge has entered an order of commitment thereto;¹⁶¹ files coroner's inquest papers (including recognizances, written evidence, verdict, and report);¹⁶² receives money deposited in court pending the decision of the court;¹⁶³ and receives payments on judgments of record in his office.¹⁶⁴

¹⁵¹ Acts 1817-18 (general), ch. 13, secs. 1, 2. Rev. L. 1824, ch. 79, secs. 8, 38. Acts 1891, ch. 194, sec. 114. Acts 1909, ch. 10, sec. 1. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205, 6-2206; Baldwin 3014, 3288.

¹⁵² Acts 1879, ch. 79, sec. 7. Acts 1881 (Spec. Sess.); Burns 2-4001; Baldwin 624.

¹⁵³ Acts 1816-17, ch. 5, sec. 22. Acts 1817-18 (general), ch. 3, sec. 63; ch. 66, sec. 5. Rev. L. 1824, ch. 40, sec. 13. Acts 1825, ch. 8, sec. 1. Rev. Stat. 1843, ch. 38, sec. 40. Acts 1893; Burns 2-822; Baldwin 103. Acts 1881 (Spec. Sess.), 1929; Burns 2-2520, 2-2706; Baldwin 392, 421. Acts 1915; Burns 3-1410; Baldwin 968. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁵⁴ 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 68 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 36, sec. 99. Acts 1905; Burns 9-904; Baldwin 2126. Neal v. State, 214 Ind. 328, 14 N. E. (2d) 590, 15 N. E. (2d) 950 (1938).

¹⁵⁵ Acts 1881 (Spec. Sess.); Burns 2-3402; Baldwin 538. Acts 1905, 1927, 1933; Burns 9-723, 9-1029, 9-1042; Baldwin 2092, 2163, 2175. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441.

¹⁵⁶ Acts 1877 (Spec. Sess.), ch. 24, secs. 1, 4. Acts 1881 (Spec. Sess.); Burns 2-813 to 2-821; Baldwin 94 to 96, 101, 102, 97, 100. Acts 1893; Burns 2-822; Baldwin 103. Acts 1905; Burns 56-505; Baldwin 14708-1. Pfeiffer Hardware Co. v. Auburn State Bank, 104 Ind. App. 472, 8 N. E. (2d) 398 (1937).

¹⁵⁷ Domestic probate. Acts 1817-18 (general), ch. 13, sec. 2. Acts 1881 (Spec. Sess.), 1883; Burns 6-2205; Baldwin 3014. 2 Rev. Stat. 1852; Burns 7-411; Baldwin 3365.

Foreign probate. 2 Rev. Stat. 1852; Burns 7-415 to 7-417; Baldwin 3389 to 3391.

¹⁵⁸ Acts 1937; Burns, 1940 suppl., 6-2514; Baldwin, 1937 suppl., 3221-14.

¹⁵⁹ These certificates and assignments thereof are recorded in the lis pendens record. Acts 1881 (Spec. Sess.); Burns 2-3909; Baldwin 622.

¹⁶⁰ These warrants are recorded in the judgment record. Acts 1933, 1937; Burns, 1940 suppl., 64-2613(a); Baldwin, 1937 suppl., 15993(a). *Opinions of the Attorney General of Indiana, 1938*, p. 303.

¹⁶¹ Acts 1939; Burns, 1940 suppl., 22-1742; Baldwin, 1939 suppl., 4227-2.

¹⁶² 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2907 to 49-2909; Baldwin 5441 to 5443.

¹⁶³ Acts 1881 (Spec. Sess.); Burns 2-4711; Baldwin 1214. Acts 1905; Burns 2-4712, 9-1026; Baldwin 1213, 2160.

¹⁶⁴ Acts 1875; Burns 49-2719; Baldwin 1438.

The clerk draws up each day's proceedings at full length in the proper order book (which is signed by the judge); enters in a final record book a complete record of causes finally determined;¹⁶⁵ and prepares and certifies transcripts of proceedings for change of venue from the county¹⁶⁶ or for appeal to a higher court.¹⁶⁷ He prepares budget estimates for the circuit court;¹⁶⁸ makes reports to the county auditor and auditor of state concerning the fines imposed by the court and the collections thereof; makes fee reports to the county auditor; and pays fines and fees to the county treasurer.¹⁶⁹

The clerk keeps the jury box containing names selected by the jury commissioners (the key thereto being kept by a jury commissioner), draws therefrom names of persons to serve on the grand jury and petit jury, records their names in the order book, and issues a venire to require such persons to appear in court.¹⁷⁰

Under authority of the Federal laws the clerk files naturalization declarations and certificates; keeps a record of naturalization proceedings; and makes reports thereof to the United States Immigration and Naturalization Service.¹⁷¹

¹⁶⁵ Acts 1816-17, ch. 3, sec. 3. Acts 1817-18 (general), ch. 3, secs. 62, 63; ch. 66, sec. 5. Rev. L. 1824, ch. 10, sec. 1; ch. 74, sec. 54. Rev. Stat. 1843, ch. 38, secs. 40, 52. 2 Rev. Stat. 1852, Acts 1885, 1933; Burns 4-324; Baldwin 1413. 2 Rev. Stat. 1852; Burns 49-2706; Baldwin 1433.

¹⁶⁶ Acts 1818-19, ch. 3, sec. 4. Acts 1881 (Spec. Sess.); Burns 2-1406; Baldwin 191. Acts 1905; Burns 9-1305; Baldwin 2226. Sun Publishing Co. v. Bonifas, 106 Ind. App. 607, 19 N. E. (2d) 879 (1939).

Fees on change of venue, and record thereof. Acts 1913, ch. 256, sec. 2. Acts 1927; Burns 2-1421; Baldwin 203. *Opinions of the Attorney General of Indiana, 1934*, p. 128.

¹⁶⁷ Acts 1903, 1915; Burns 2-3104; Baldwin 462. Acts 1881 (Spec. Sess.); Burns 2-3105; Baldwin 455. Acts 1903, 1933; Burns 2-3112; Baldwin 466.

¹⁶⁸ Acts 1899; Burns 26-516; Baldwin 5380.

¹⁶⁹ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1909; Burns 60-214; Baldwin 13865.

¹⁷⁰ Acts 1817-18 (general), ch. 48, secs. 2, 3. Rev. L. 1824, ch. 56, secs. 1-3. Rev. L. 1831, ch. 53, secs. 1, 2. Acts 1881 (Spec. Sess.), 1939; Burns, 1940 suppl., 4-3304; Baldwin, 1939 suppl., 1267. Acts 1881 (Spec. Sess.), 1895, 1913; Burns 4-3305, 4-3306; Baldwin 1272, 1270.

Failure to empty the jury box at beginning of year held not ground for reversal of manslaughter conviction. *Crickmore v. State*, 213 Ind. 586, 12 N. E. (2d) 266 (1938).

Objection to irregularities in the selection, impaneling, or swearing of grand jury should be raised by plea in abatement. *Johnson v. State*, 213 Ind. 659, 14 N. E. (2d) 96 (1938).

¹⁷¹ U. S. C., title 8, secs. 357, 400 (laws of 1906, 1911, 1913). U. S. Executive Order (June 10, 1933) 6166, sec. 14. Acts 1933, 1937; Burns, 1940 suppl., 49-1007; Baldwin, 1937 suppl., 7537.

Formerly the clerk issued certificates showing discharge of apprentices by the court;¹⁷² recorded prison bounds;¹⁷³ and made reports to the board of commissioners concerning fines imposed by the circuit court and collections thereof.¹⁷⁴

The state board of accounts has prescribed forms for the following records: Entry and issue docket and fee book; estate entry claim and allowance docket and fee book; guardianship docket and fee book; support docket; index and record of receiverships; and judgment docket.¹⁷⁵

CIVIL CAUSES

FILING OF ACTIONS

110. ENTRY, ISSUE DOCKET & FEE BOOK, 1913-. 15 vols. (40-54).

Record of filing of actions, causes set for trial, and fees and costs assessed in civil causes, showing nature and number of cause; dates of filing, sheriff's return, proceedings, and collection and disbursement of fees and costs; names of plaintiff, defendant, payer, and payee; amount and nature of fees and costs; disposition of cause; and volume and page reference to Order Book, [Civil], entry 134. This is a combination of two records formerly kept separately: Entry Book, entry 111; and Fee Book, Civil, entry 153. Also contains: Fee Book, Criminal, 1916-20, entry 162. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 289 pp. 18 x 12 x 3. Clk. off.

111. ENTRY BOOK, 1879-1912. 5 vols. (1-5). 1913- in Entry, Issue Docket & Fee Book, entry 110.

Record of filing of actions and causes set for trial in civil causes, showing dates of filing, issuing process, court term, sheriff's return, proceedings, and judgment; nature and number of cause; names of plaintiff, defendant, and attorneys; and amounts of judgment, costs, and fees. Also contains:

¹⁷² Acts 1817-18 (general), ch. 51, sec. 2. Rev. L. 1824, ch. 3, sec. 2. Rev. L. 1831, ch. 4, sec. 2.

¹⁷³ Acts 1817-18 (general), ch. 32, sec. 1. Rev. L. 1824, ch. 77, sec. 1. Rev. L. 1831, ch. 75, sec. 1.

¹⁷⁴ Acts 1821-22, ch. 79, sec. 3. Rev. L. 1824, ch. 22, sec. 9. Acts 1827-28, ch. 83, sec. 2. Rev. L. 1831, ch. 54, sec. 14; ch. 90, sec. 4. Rev. Stat. 1843, ch. 13, secs. 80-83, 1 Rev. Stat. 1852, ch. 92.

¹⁷⁵ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

Entry Book [Criminal], entry 155. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs and defendants. Hdw. 318 pp. 18 x 12 x 3. Attic stor. rm.

ORIGINAL DOCUMENTS

112. CIVIL [Causes], 1826-. 796 f. b. (1-568, 630-857).

Also 1826- in [Clerk's Miscellaneous Papers], entry 58.

Original documents filed in civil causes, including complaints, summons, answers, denials, transcripts, subpoenas, notices of appeal, verdicts and demurrers, showing dates of document and filing; nature and number of cause; names of plaintiff, defendant, witnesses, and attorneys; and action taken. Also contains: [Petition for Adoptions], 1826-56, 1911-, entry 115; [Apprentice Indentures], 1885-, entry 116; [Insanity [Causes], 1925-, entry 118; [Orders for Sales], 1826-67, entry 147; Criminal [Causes], 1894-1912, entry 156; [Habeas Corpus], 1894-1912, entry 161; [Admission to Bar], 1826-93, entry 211; [Summons], 1826-80, entry 214; [Depositions], 1877-1914, entry 220; and [Citations], 1826-82, 1889-, entry 225. Arr. num. by cause nos. For indexes, see entries 59, 113. Hdw. 1826-92; hdw. and typed, 1893-. 568 f. b., 6 x 4 x 12; 228 f. b., 11 x 5 x 15. Clk. rec. rm.

113. CIVIL INDEX, 1826-. 2 vols. (1, 2).

Index to Civil [Causes], entry 112, showing names of plaintiff and defendant, cause number, and file box reference. Arr. alph. by names of plaintiffs and defendants. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

114. [JUSTICE OF PEACE TRANSCRIPTS], 1836-. In [Clerk's Miscellaneous Papers], entry 58.

Transcripts of causes appealed from justice of peace courts, showing dates of transcript and filing; cause number; names of plaintiff, defendant, justice, and township; nature of action; and court decree.

115. [PETITIONS FOR ADOPTION], 1857-1910. In [Clerk's Miscellaneous Papers], entry 58. 1826-56, 1911- in Civil [Causes], entry 112.

Petitions for adoption of children, showing dates of petition and filing, term of court, name of petitioner, name and age of child, and nature and conditions of petition.

116. [APPRENTICE INDENTURES], 1835-84. In [Clerk's Miscellaneous Papers], entry 58. 1885- in Civil [Causes], entry 112.

Indentures of apprenticeship, showing dates of indenture and

filing; names of apprentice, master, and parent or guardian; nature of indenture; and notarization.

CORONER'S INQUESTS

117. CORONER'S INQUESTS, 1861-. 97 f. b. (numbered irregularly).

Coroner's reports on inquests held to establish cause of violent, accidental and sudden deaths, showing dates of death, inquest, findings, and filing; name, age, sex, color, height, and weight of deceased; names and testimonies of witnesses; and coroner's findings. Arr. chron. by dates of filing. For index, see entry 59. Hdw. and typed. 75 f. b., 6 x 4 x 12; 22 f. b., 11 x 5 x 14. Clk. rec. rm.

INSANITY, FEEBLE-MINDEDNESS AND HOSPITALIZATION

118. INSANITY [Causes], 1831-1924. 23 f. b. 1827-30 in [Clerk's Miscellaneous Papers], entry 58; 1925- in Civil [Causes], entry 112.

Original documents filed in causes of alleged insanity, showing information as in entry 119. Arr. chron. by dates of filing. For index, see entry 59. Hdw. and typed. 13 f. b., 6 x 4 x 12; 10 f. b., 11 x 5 x 14. Clk. rec. rm.

119. INSANE RECORD, 1849-1928. 9 vols. (1-9). 1929- in Order Book [Civil], entry 134.

Record of inquests and proceedings in causes of alleged insanity, showing dates of application, filing, inquest, commitment, and discharge or death; name, age, sex, and color of patient; names of examining physicians, witnesses, and institution; physician's report; court order for commitment; and sheriff's return. Arr. chron. by dates of filing. Indexed alph. by names of patients; for separate index, 1927-28, see entry 120. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

For original documents, see entry 118.

120. INDEX TO INSANITY CAUSES, 1927-. 1 vol.

Index to Insanity Causes in Civil [Causes], entry 112; Insane Record, 1927-28, entry 119; and insane causes in Order Book [Civil], 1929-, entry 134, showing date of instrument or filing, names of patient and court, cause number, volume and page reference to recording, and file box reference. Arr. alph. by names of patients. Hdw. 150 pp. 18 x 8 x ½. Clk. off.

121. INSANE RE-COMMITTAL RECORD, Apr. 7, 1911-. 1 vol. (8). Record of recommitments of insane persons to state institutions, showing dates of physician's statement, previous admission, discharge, and recommitment; name and address of

patient; names of physician and institution; cause number; and proceedings. Arr. chron. by dates of recommittals. Indexed alph. by names of patients. Hdw. 415 pp. 18 x 12 x 3. Clk. rec. rm.

122. FEEBLE-MINDED, 1923-. 1 f. b. (6).

Original documents filed in causes of feeble-mindedness, including summons, warrants for arrest, proceedings to recommit, receipts of admission, and notices of discharge or death, showing dates of document and filing; names of patient, examining physician, witnesses, and institution; cause number; order of commitment; amount of fees and costs; and institution's receipt for patient. Arr. chron. by dates of filing. No index. Hdw. 11 x 5 x 4. Clk. rec. rm.

123. ADMISSION TO RILEY HOSPITAL, 1925-. 1 f. b.

Original documents for admittance of children to Riley Hospital, including petitions, reports, court orders and receipts, showing dates of document and filing; name, age, sex, color, nature of illness or deformity, and case history of child; names, addresses, and financial status of parents; recommendation of county department of public welfare; court orders for admission and delivery; and hospital superintendent's receipt of admission. Arr. chron. by dates of filing. For index, see entry 59. Hdw. 11 x 5 x 14. Clk. rec. rm.

124. RILEY HOSPITAL RECORD, 1928-. 1 vol. 1925-27 in Order Book, entry 205.

Record of petitions and orders for admittance of children to Riley Hospital, showing dates of petition, filing, and court order; names of child, petitioner, parents or guardian, and official or person designated to deliver child to hospital; address of petitioner and parents or guardian; and relationship of petitioner to child. Arr. chron. by dates of petitions. Indexed alph. by names of children. Hdw. 315 pp. 18 x 12 x 2. Cir. et. off.

NATURALIZATION

125. [NATURALIZATION PAPERS], 1831-1906. 22 f. b. (1-22).
Contains:

- i. Declaration of intention to become a citizen, showing information as in entry 127-i.

For subsequent records, see entry 127-ii.

- ii. Petitions for naturalization, showing dates of petition, affidavit, and court order; name, age, address, occupation, color, sex, nationality, and marital status of applicant; dates and ports

of emigration and immigration; and names of witnesses.

For subsequent records, see entry 128.

Arr. chron. by dates of filing. For index, see entry 126.

Hdw. 6 x 4 x 12. Clk. rec. rm.

126. INDEX TO NATURALIZATION, 1881-1906. 1 vol.

Index to [Naturalization Papers], entry 125, showing date of instrument, name and nationality of alien, and file box reference. Arr. alph. by names of aliens. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

127. DECLARATION OF INTENTION, 1888-. 6 vols. (1, 1-4; 1 vol. unlabeled). Title varies: Alien Record, 1888-1905, 1 vol. 1842-87 in Order Book, [Civil], entry 134.

Contains:

- i. Record of declaration of intention to become U. S. citizens, 1888-1905, showing date of declaration; name, address, occupation, sex, race, nationality, date and place of birth, marital status, physical description, and last foreign residence of alien; name and place and date of birth of alien's wife; dates and places of marriage and arrival in U. S.; dates and places of birth of children; name of vessel; and declaration, court serial, and certificate of arrival numbers.
- ii. Original declarations of intention to become U. S. citizens, pasted in volume, 1906-, showing information as in paragraph i.

For prior records, see entry 125-i.

Arr. num. by serial nos. Indexed alph. by names of aliens.

Hdw. 250 pp. 12 x 9 x 1½. 5 vols., 1888-1929, clk. rec. rm.; 1 vol., 1930-, clk. off.

128. PETITION AND RECORD, 1906-. 9 vols. (1-9).

Record of petitions for naturalization, affidavits of witnesses and oaths of allegiance, showing date and number of petition; name, address, occupation, sex, marital status, and race of petitioner; dates and places of birth and addresses of children; names of native country, port of emigration, sailing vessel, and port of entry; last foreign address; dates of departure and arrival; length of residence in country; oath of allegiance to United States; renunciation of foreign alliance; names and addresses of witnesses; cause and certificate of arrival numbers; and court order. Arr. num. by petition nos. Indexed alph. by names of petitioners. Hdw.

200 pp. 18 x 12 x 1½. 7 vols., 1906-Apr. 8, 1930, clk. rec. rm.; 2 vols., Apr. 18, 1930-, clk. off.

For prior records, see entry 125-ii.

129. CERTIFICATES OF NATURALIZATION, 1907-. 12 vols., 1 bdl.

Stubs of naturalization certificates, showing dates of declaration of intention, petition, and certificate; petition and certificate numbers; and name of alien. Arr. num. by certificate nos. No index. Hdw. Vols., 50 pp. 9 x 5 x ½; bdl., 9 x 5 x 6. 12 vols., 1907-Apr. 20, 1926, clk. rec. rm.; 1 bdl., Apr. 21, 1926-, clk. off.

130. ORDER BOOK, 1930-. 1 vol.

Record of citizenships granted or denied, showing date of order; name, age, and address of petitioner; order granting or denying citizenship; action of court on petitioner's prayer for change of name; reason for denial; and petition number. Arr. chron. by dates of court orders. No index. Typed. 50 pp. 10 x 9 x ½. Clk. off.

RECEIVERSHIPS

131. RECEIVERSHIPS, 1912-. 1 vol.

Record of receivership and assignment causes, showing cause number; dates of filing, sheriff's return, and proceedings; names of receivership, receiver, assignors, assignees, and claimants; inventory and appraised valuation of property; and amounts of assets, liabilities, claims, and allowances. Arr. chron. by dates of filing. No index. Hdw. 578 pp. 16 x 12 x 3. Clk. off.

132. [RECEIVER BONDS], 1901-. In [Clerk's Miscellaneous Papers], entry 58.

Bonds posted by receivers in insolvency causes, showing dates of bond and filing, amount and conditions of bond, and names of receiver and sureties.

MINUTES

133. BENCH DOCKET CIVIL, 1839-42, 1848-. 54 vols. (1 vol. unlabeled; 1-53), 3 f. d.

Record of actions and proceedings in civil causes, showing cause number; dates of filing, court term, proceedings, and sheriff's return; names of plaintiff, defendant, attorneys, and judge; nature of action; minutes of court; and volume and page reference to Order Book [Civil], entry 134. Arr. chron. by dates of court terms. No index. Hdw. Vols., 480 pp. 18 x 12 x 3; f. d., 12 x 15 x 25. 1 vol., 1839-42, clk. rec. rm.; 53 vols., 1848-1908, attic stor. rm.; 3 f. d., 1909, cir. ct. off.

ORDERS

134. ORDER BOOK [Civil], 1827-. 123 vols. (1-5, 5, 1-117).

Record of verdicts returned and judgments and orders of court in civil and criminal causes, showing dates of filing, proceedings, court orders, and verdict; court term; cause number; nature of verdict or judgment; and court order. Also contains: Insane Record, 1929-, entry 119; Declaration of Intention, 1842-87, entry 127; Record of Commissioner's Report of Partition of Real Estate, 1833-52, 1869-, entry 135; and Indictment Record, 1827-52, entry 158. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw., 1827-June 21, 1917; typed, June 25, 1917-. 576 pp. 18 x 12 x 3. 121 vols., 1827-July 10, 1935, clk. rec. rm.; 2 vols., July 11, 1935-, cir. et. rm.

135. RECORD OF COMMISSIONER'S REPORT OF PARTITION OF REAL ESTATE, 1853-68. 1 vol. (1). 1833-52, 1869- in Order Book [Civil], entry 134.

Record of proceedings to partition real estate in civil causes, showing dates of appointment of commissioners, court term, and commissioners' report; names of plaintiff, defendant, and commissioners; location and description of property; and court proceedings. Arr. chron. by dates of court terms. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

JUDGMENTS (see also entries, 154-162, 244, 245)

136. JUDGMENT DOCKET, 1827-. 23 vols. (1-23).

Record of judgments rendered in civil and criminal causes, showing dates of filing, judgment, assignment, and satisfaction; names of plaintiff, defendant, judgment debtor, and attorneys; number and nature of cause; amounts of judgment, interest, and costs; and volume and page reference to Order Book [Civil], entry 134. Arr. chron. by dates of judgments. Indexed alph. by names of judgment debtors. Hdw. 235 pp. 16 x 11 x 3. 20 vols., 1827-Mar. 20, 1923, clk. rec. rm.; 3 vols., Mar. 21, 1923-, clk. off.

137. JUDGMENT DOCKET, 1876-86. 3 vols. (11-13).

Original judgment dockets that have been transcribed into new volumes, showing information as in entry 136. Arr. chron. by dates of judgments. Indexed alph. by names of judgment debtors. Hdw. 235 pp. 16 x 11 x 3. Attic stor. rm.

EXECUTIONS (see also entries, 197, 237-239, 251, 257, 263, 264).

138. [EXECUTIONS], 1840-. 64 f. b.

Original writs of executions, showing information as in entry 140. Arr. chron. by dates of sheriff's returns. For index, 1840-93, see entry 139; 1894-, see entry 59. Hdw. 62 f. b., 6 x 4 x 12; 2 f. b., 11 x 5 x 14. Clk. rec. rm.

139. INDEX TO EXECUTIONS, 1840-93. 6 vols. (1-6).

Index to [Executions], entry 138, showing date of writ; names of plaintiff, defendant, and court; and file box reference. Arr. alph. by names of plaintiffs and defendants. Hdw. 500 pp. 18 x 12 x 3. Clk. rec. rm.

140. EXECUTION DOCKET, 1827-. 26 vols. (1, 1-24; 1 vol. unlabeled).

Record of writs issued for execution of judgments, showing cause number; dates of judgment, writ, and sheriff's return; names of plaintiff, defendant, judgment debtor, and attorneys; location and description of property; and amounts of judgment, interest, and costs. Also contains: Execution Docket [Probate], 1874-, entry 197. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 18 x 12 x 3. 25 vols., 1827-Oct. 22, 1915, clk. rec. rm.; 1 vol., Oct. 23, 1915-, clk. off.

For original writs of execution, see entry 138.

141. PRECIPE, 1885-. 3 vols. (1 vol. unlabeled; 6, 7).

Record of orders issued by attorneys or plaintiffs to clerk to issue writs of execution of court decrees, showing dates of order, court term, and judgment; number and nature of cause; names of plaintiff, defendant, judgment debtor, and attorneys; and amount of judgment. Arr. chron. by dates of orders. No index. Hdw. 400 pp. 18 x 12 x 2. 2 vols., 1885-1927, clk. rec. rm.; 1 vol., 1928-, clk. off.

142. ORDER OF SALE, 1895-. 4 vols. (1-4).

Transcripts of orders of sales of property to satisfy judgments, showing dates of judgment, order, and sheriff's return; cause number; names of plaintiff, defendant, and purchaser; amounts of judgment, sale, and costs; and location and description of property. Arr. chron. by dates of orders. Indexed alph. by names of plaintiffs and defendants. Hdw. 576 pp. 18 x 12 x 3. 2 vols., 1895-June 15, 1927, clk. rec. rm.; 2 vols., June 16, 1927-, clk. off.

143. TRANSCRIPT TO BIND, 1933-. 1 f. b. (5). 1836-1932 in [Clerk's Miscellaneous Papers], entry 58.

Transcripts to bind real estate on judgments rendered in justice of peace courts, transferred to circuit court for

execution, showing dates of judgment, transcript, and filing; names of plaintiff, defendant, judgment debtor, township, and justice of peace; amounts of judgment, interest, and costs; and proceedings and decision of court. Arr. chron. by dates of filing. For index, see entry 59. Hdw. and typed. 11 x 5 x 14. Clk. rec. rm.

144. LIS PENDENS RECORD, 1877-. 5 vols. (1-5).

Record of complaints and attachments of property to satisfy judgments, including:

- i. Complaints filed against owners of property subject to levy for satisfaction of judgment, showing cause number; date of filing; names of plaintiff, defendant, and attorneys; nature of complaint; and location and description of property.
- ii. Sheriff's notice of attachment of property to satisfy judgments, showing cause number, dates of notice and filing, names of plaintiff and defendant, and location and description of property.

Also contains: [Sheriff's Certificates of Sale], 1910-, entry 148; and Redemption Register, 1888-, entry 149. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 576 pp. 18 x 12 x 3. 4 vols., 1877-Feb. 6, 1928, clk. rec. rm.; 1 vol., Feb. 7, 1928-, clk. off.

145. [NOTICES OF ATTACHMENT], 1877-. In [Clerk's Miscellaneous Papers], entry 58.

Notices of attachment or levy on property to satisfy judgments, showing dates of notice and filing, names of plaintiff and defendant, cause number, and location and description of property.

146. [STAY OF EXECUTIONS], 1914-. In [Clerk's Miscellaneous Papers], entry 58.

Affidavits of recognizance for replevin bail on stay of execution, showing date of affidavit and filing; cause number; names of plaintiff, defendant, and affiant; and amount and cash value of real estate owned by affiant.

147. [ORDERS FOR SALES], 1826-. 1826-67 in Civil [Causes], entry 112; 1868- in [Clerk's Miscellaneous Papers], entry 58.

Orders for sale of property for satisfaction of judgments, showing dates of order and filing, name of property owner, location and description of property, amount of judgment, and sheriff's return.

148. [SHERIFF'S CERTIFICATES OF SALES], 1889-. 1889-1909 in [Clerk's Miscellaneous Papers], entry 58. 1910- in Lis Pendens Record, entry 144.

Certificates of sale issued to purchasers of property sold to satisfy judgments, showing dates of judgment, sale, and filing; cause number; names of plaintiff, defendant, and purchaser; amounts of judgment, interest, costs, and sale; and location and description of property.

149. REDEMPTION REGISTER, 1880-81, 1887. 1 vol. 1888- in Lis Pendens Record, entry 144.

Record of certificates of redemption of property sold to satisfy judgments, showing cause number; dates of judgment, sale, redemption, and certificate; names of plaintiff, defendant, court, and redeemer; location and description of property; amounts of judgment, sale, and redemption. Arr. chron. by dates of redemptions. Indexed alph. by names of plaintiffs and defendants. Hdw. 463 pp. 18 x 12 x 3. Clk. rec. rm.

COMPLETE TRANSCRIPTS

150. FINAL RECORD [Civil], 1827-. 63 vols. (1-63).

Complete transcripts of actions and proceedings in civil causes, showing dates of transcript, trial, issuance of summons, and return; number and nature of cause; names of plaintiff, defendant, and attorneys; proceedings of court; and disposition of cause. Arr. chron. by dates of transcripts. Indexed alph. by names of plaintiffs and defendants, 1935-; for index, 1827-1934, see entry 151. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

151. INDEX FINAL RECORD, 1827-1934. 2 vols.

Index to Final Record [Civil], entry 150, showing names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiffs and defendants. Hdw. 210 pp. 16 x 8 x 2. Clk. rec. rm.

FEE AND CASH RECORDS

152. SUPPORT DOCKET, 1910-. 8 vols. (1-8).

Record of money received and disbursed for support and alimony, showing dates of court order, receipt, and disbursement; title and number of cause; amounts of receipts and disbursements; and names of payer and payee. Arr. chron. by dates of court orders, thereunder chron. by dates of receipts. Indexed alph. by names of payers and payees. Hdw. 400 pp. 16 x 12 x 2. Clk. off.

153. FEE BOOK, CIVIL, 1838-1913. 32 vols. (1 vol. unlabeled; 7-33, 35-38). 1913—in Entry Docket & Fee Book, entry 110.

Record of fees and costs assessed in civil causes, showing nature and number of cause; names of plaintiff, defendant, payer, and payee; itemized list of fees and costs; and date and amount of collection. Also contains: Fee Book, Criminal, 1838-66, 1884-94, entry 162. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 574 pp. 18 x 12 x 3. 1 vol., 1838-41, attic stor. rm.; 31 vols., 1842-1913, clk. rec. rm.

CRIMINAL CAUSES

(See also entries, 136, 137, 244, 245).

FILING OF ACTIONS

154. CRIMINAL FEE BOOK, Apr. 1921—. 2 vols. (1, 2). Record of filing of actions, causes set for trial, and fees and costs assessed, showing nature and number of cause; dates of filing, sheriff's return, proceedings, and collection and disbursement of fees and costs; names of plaintiff, defendant, payer, and payee; amount and nature of fees and costs; disposition of cause; and volume and page reference to Order Book [Civil], entry 134. This is a combination of two records formerly kept separately: Entry Book [Criminal], entry 155; and Fee Book, Criminal, entry 162. Arr. chron. by dates of filing. Indexed alph. by names of defendants. Hdw. 600 pp. 18 x 12 x 3. Clk. off.

155. ENTRY BOOK [Criminal], 1913-Mar. 1921. 2 vols. (6, 7). 1879-1912 in Entry Book, entry 111; Apr. 1921— in Criminal Fee Book, entry 154.

Record of filing of actions and causes set for trial, showing dates of filing, issuing process, court term, sheriff's return, proceedings, and judgment; nature and number of cause; names of plaintiff, defendant, and attorneys; amounts of costs and fees, and disposition of cause. Arr. chron. by dates of filing. Indexed alph. by names of defendants. Hdw. 318 pp. 18 x 12 x 3. Attic stor. rm.

ORIGINAL DOCUMENTS

156. CRIMINAL [Causes], 1827-93, 1913—. 167 f. b. (numbered irregularly). 1894-1912 in Civil [Causes], entry 112; also 1869-80, 1915— in [Clerk's Miscellaneous Papers], entry 58.

Original documents filed in criminal causes, including affi-

davits, indictments, warrants, writs, subpoenas, answers, denials, and recognizance bonds, showing dates of documents and filing, nature and number of cause, and names of defendant and attorneys. Also contains: [Habeas Corpus], 1913-, entry 161; and [Summons], 1828-80, entry 214. Arr. num. by cause nos. For indexes, see entries 59, 157. Hdw., 1827-93; hdw. and typed, 1913-. 154 f. b., 6 x 4 x 12; 13 f. b., 11 x 5 x 14. Clk. rec. rm.

157. CRIMINAL INDEX, 1827-. 1 vol. (1).

Index to Criminal [Causes], 1827-93, 1913-, entry 156; criminal causes in Civil [Causes], 1894-1912, entry 112; and [Juvenile Court Papers], 1907-, entry 204, showing date of filing, name of defendant, and file box reference. Arr. alph. by names of defendants. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

INDICTMENTS

158. INDICTMENT RECORD, 1852-. 11 vols. (1-11). 1827-52 in Order Book [Civil], entry 134.

Record of grand jury indictments, showing dates of indictment, filing, and recording; date and nature of alleged offense; cause number; and names of defendant and witnesses. Arr. chron. by dates of indictments. Indexed alph. by names of defendants. Hdw., 1853-1912; typed, 1913-. 380 pp. 18 x 12 x 3. 10 vols., 1853-1927, clk. rec. rm.; 1 vol. 1928-, clk. off.

159. [GRAND JURY] RECORD, 1888-90, 1900-1903. 2 vols. Record of grand jury proceedings, showing date of proceedings; names of defendant, witnesses, and jurors; statements of witnesses; and action taken. Arr. chron. by dates of proceedings. Indexed alph. by names of defendants. Hdw. 580 pp. 16 x 12 x 2½. 1 vol., 1888-90, clk. off.; 1 vol., 1900-1903, clk. rec. rm.

BONDS AND WRITS

160. RECOG[nizance] BONDS, 1922-. 1 f. b. 1883-1921 in [Clerk's Miscellaneous Papers], entry 58.

Original bonds posted by defendants in criminal causes, showing dates of bond, filing, and approval; names of plaintiff, defendant, and sureties; amount and conditions of bond; cause number; and nature of charge. Arr. chron. by dates of bonds. For index, see entry 59. Typed. 11 x 5 x 14. Clk. off.

161. [HABEAS CORPUS], 1827-. 1827-93 in [Clerk's Miscellaneous Papers], entry 58. 1894-1912 in Civil [Causes], entry 112; 1913- in Criminal [Causes], entry 156.

Habeas corpus writs, showing dates of writ, appearance, and filing; name of defendant; nature of action; and sheriff's return.

FEE AND CASH RECORDS

162. FEE BOOK, CRIMINAL, 1867-83, 1895-1915. 3 vols. (1, 2, 34). 1838-66, 1884-94 in Fee Book, Civil, entry 153; 1916-20 in Entry, Issue Docket & Fee Book, entry 110; 1921- in Criminal Fee Book, entry 154.

Record of fees and costs assessed in criminal causes, showing nature and number of cause; names of defendant, payer, and payee, itemized list of fees and costs; and date and amount of collection. Arr. num. by cause nos. Indexed alph. by names of defendants. Hdw. 568 pp. 18 x 12 x 3. Clk. rec. rm.

PROBATE CAUSES

FILING OF ACTIONS

163. ESTATE, ENTRY, CLAIM AND ALLOWANCE DOCKET AND FEE BOOK, 1913-. 16 vols. (19-34).

Record of filing of actions, claims and allowances, and fees assessed in estate causes, showing cause number; dates of decedent's death and letter of administration; names of decedent, administrator or executor, sureties, and claimants; amounts of administrator's or executor's bond, inventory, claim, and allowance; number and nature of claim; and amount of fees. This is a combination of two records formerly kept separately: Appearance Docket, entry 164; and Fee Book, Decedent's Estate, entry 202. Arr. num. by cause nos. Indexed alph. by names of decedents. Hdw. 576 pp. 18 x 15 x 3. 10 vols., 1913-Feb. 1931, clk. rec. rm.; 6 vols., May 1931-, clk. off.

164. APPEARANCE DOCKET, 1835-1912. 18 vols (1-18).

1913- in Estate, Entry, Claim and Allowance Docket and Fee Book, entry 163.

Record of filing of actions and allowance of claims in estate causes, showing dates of filing, claim, allowance, administrator's or executor's report, and settlement; cause and claim numbers; names of estates, administrator or executor,

and claimant; and amounts of claim and allowance. Arr. chron. by dates of filing. Indexed alph. by names of estates. Hdw. 576 pp. 18 x 15 x 3. Clk. rec. rm.

165. GUARDIANSHIP DOCKET AND FEE BOOK, 1913-. 4 vols. (15-18).

Record of actions filed and fees assessed in guardianship causes, showing cause number; dates of filing and appointment of guardian; names of ward, guardian, and sureties; amount of guardian's bond; and nature and amount of fees. This is a combination of two records formerly kept separately: Guardian's Docket, entry 166; and Guardian's Fee Book, entry 203. Arr. chron. by dates of filing. Indexed alph. by names of guardians. Hdw. 574 pp. 18 x 12 x 3. Clk. off.

166. GUARDIANSHIP DOCKET, 1830-1912. 4 vols. (1, 21, 3, 4). 1913- in Guardianship Docket and Fee Book, entry 165.

Record of filing of actions in guardianship causes, showing cause number; dates of filing, letters of guardianship, bond, proceedings, and guardian's reports and settlement; names of ward, guardian, and sureties; amount of guardian's bond; and volume and page reference to Order Book, Probate entry 193. Arr. num. by cause nos. Indexed alph. by names of wards and guardians. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

ORIGINAL DOCUMENTS

167. PROBATE [Causes], 1826-. 1,066 f. b. (1-1,066). Also 1826-53, 1839- in [Clerk's Miscellaneous Papers], entry 58.

Original documents in estate and guardianship causes, including letters of administration and guardianship, administrators', executors', and guardians' bonds, inventories of property, orders determining value of estate, petitions to sell property, reports of sales, copies of wills, claims, receipts for claims, and expenses paid, and final reports, showing dates of letter and filing; cause number; and names of estate, ward, administrator or executor, and guardian. Also contains: [Claims], 1826-53, 1839-, entry 177; and Sale [Real] E[state] Bonds, 1853-1909, entry 186. Arr. num. by cause nos. No index, 1826-84; for index, 1853-73, 1885-, see entry 168. Hdw., 1826-1900; hdw. and typed, 1901-. 641 f. b., 6 x 4 x 12; 425 f. b., 11 x 5 x 14. Clk. rec. rm.

168. PROBATE INDEX, 1853-73. 4 vols.

Index to Probate [Causes], entry 167, showing names of estate

and administrator or executor, or guardianship and guardian, cause number, and file box reference. Arr. alph. by names of estates and administrators or executors, or guardianships and guardian. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

169. EST[ate Causes Pending], 1920-. 18 f. b.

Original documents in estate causes, including copies of letters of administration, administrators' bonds, inventories of property, claims, receipts for allowances and expenses, petitions to sell property, partial reports, reports of sales, and copies of wills, showing cause number, dates of filing and letters of administration, and names of estate and administrator or executor. Arr. num. by cause nos. For index, see entry 170. Hdw. and typed. 11 x 5 x 14. Clk. off.

170. REFERENCE DOCKET, CASES PENDING, 1920-. 1 vol. Index to Est[ate Causes Pending], entry 169, showing names of estate and administrator or executor, volume and page reference to Estate, Entry, Claim and Allowance Docket and Fee Book, 1925-, entry 163, and file box reference. Arr. alph. by names of estates and administrators or executors. Hdw. 150 pp. 18 x 12 x 1. Clk. off.

171. GUARDIAN[ship Causes Pending], 1933-. 16 f. b.

Original documents in guardianship causes, including petition for appointment of guardian, letters of guardianship, guardians' bonds, inventories of property, petitions to sell property, guardians' reports, claims, and receipts for claims and expenses paid, showing dates of filing and appointment of guardian; names of wards, guardian, and sureties; and cause number. Arr. num. by cause nos. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

172. TRUST[eeship Causes Pending], 1926-. 9 f. b.

Original documents in trusteeship causes, including appointment of trustee, trustee's bond, inventory of property, claims, receipts for expenses and claims paid, and reports, showing dates of filing and appointment of trustee, names of estate and trustee, and cause number. Arr. num. by cause nos. No index. Hdw. and typed. 11 x 5 x 14. Clk. off.

WILLS AND PARTITIONS

173. INDEX TO WILL RECORD, 1827-. 1 vol.

Index to wills in [Clerk's Miscellaneous Papers], entry 58; and [Wills], entry 174, showing date of filing, name of testator, and file box reference. Arr. alph. by names of testators. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

174. [WILLS], 1830-. 39 f. b. (labeled irregularly). 1827-29 in [Clerk's Miscellaneous Papers], entry 58.

Original wills filed for probate, showing information as in entry 175. Arr. chron. by dates of filing, 1830-1937; arr. alph. by names of testators, 1938-. For indexes, see entries 59, 173. Hdw., 1830-1906; typed, 1907-. 13 f. b., 6 x 4 x 12; 26 f. b., 11 x 5 x 14. 36 f. b., 1830-1937, clk. rec. rm.; 3 f. b., 1938-, clk. off.

175. WILL RECORD, 1828-. 18 vols. (1, 2, 2-17).

Transcripts of wills filed for probate, showing dates of will and filing; names of testator, heirs or beneficiaries, witnesses, and executor; and amounts, nature, and conditions of bequests. Arr. chron. by dates of filing. Indexed alph. by names of testators. Hdw., 1828-Mar. 1, 1910; typed, Mar. 4, 1910-. 576 pp. 18 x 12 x 3. 17 vols., 1828-May 20, 1935, clk. rec. rm.; 1 vol., May 23, 1935-, clk. off.

For original wills, see entries 95-iv, 174; for other will records, see entry 76.

176. RECORD OF COMMISSIONERS REPORT OF PARTITION OF REAL ESTATE, 1853-69. 1 vol. 1830-52, 1870- in Order Book, Probate, entry 193.

Record of proceedings to partition real estate in probate causes, showing dates of court term, petition, and filing; names of estate, administrator, and heirs; location, description, and appraised valuation of property; cause number; and court order. Arr. chron. by dates of court terms. Indexed alph. by names of plaintiffs. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

CLAIMS

177. [CLAIMS], 1826-. 1826-53, 1889- in Probate Causes, entry 167; 1854-88 in [Clerk's Miscellaneous Papers], entry 58.

Claims filed against estates, showing dates of claim and filing, name of claimant, and amount and nature of claim.

BONDS

178. INDEX TO ADMINISTRATORS' AND EXECUTORS' BONDS, 1827-1916. 1 vol.

Index to administrators' and executors' bonds and letters in [Clerk's Miscellaneous Papers], 1827-69, entry 58; Administrators' [and Executors'] Bonds [and Letters], 1870-1916, entry 179, showing date of filing, name of estate, and file box reference. Arr. alph. by names of estates. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

179. ADMINISTRATORS' [and Executors'] BONDS [and Letters], 1870-. 43 f. b. (numbered irregularly). Title varies: Estate Bonds, 1928-37, 4 f. b. 1827-69 in [Clerk's Miscellaneous Papers], entry 58.

Contains:

- i. Administrators' and executors' bonds, showing information as in entry 180.
- ii. Administrators' and executors' letters, showing information as in entry 187.
- iii. Surviving partnership bonds, showing date, amount, and conditions of bond; date of filing; and names of deceased, surviving partners, firm, and sureties.

Arr. chron. by dates of filing. For index, 1870-, see entry 59; 1870-1916, see entry 178. Hdw. and typed. 25 f. b., 6 x 4 x 12; 18 f. b., 11 x 5 x 14. 39 f. b., 1870-1919, clk. rec. rm.; 4 f. b., 1920-, clk. off.

180. ADMINSTRATORS' BONDS, June 14, 1865-1922. 3 vols. (2-4). Discontinued. 1853-June 13, 1865 in Docket for Executors', Administrators' and Guardians' Bonds, entry 184.

Record of trustees', administrator's and executor's bonds, showing date, amount, and conditions of bond; date of filing; and names of estate, trustee, administrator or executor, and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of trustees, administrators or executors. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

For original bonds, see entry 179-i.

181. INDEX TO GUARDIANS' BONDS, 1827-71. 1 vol.

Index to guardians' bonds and letters in [Clerk's Miscellaneous Papers], entry 58, showing date of filing, names of ward, and file box reference. Arr. alph. by names of wards. Hdw. 18 x 12 x 3. Clk. rec. rm.

182. GUARDIANS' BONDS [and Letters], 1872-. 21 f. b. 1827-71 in [Clerk's Miscellaneous Papers], entry 58.

Guardians' bonds and letters filed, showing dates of bond, letter, and filing; names of estate, wards, guardian, and sureties; cause number; and amount and condition of bond. Arr. num. by cause nos. For index, see entry 59. Hdw. and typed. 11 x 5 x 14. 19 f. b., 1872-1929, clk. rec. rm.; 2 f. b., 1930-, clk. off.

183. GUARDIANS' BONDS, June 14, 1865-1922. 2 vols. (2-3). Discontinued. 1853-June 13, 1865 in Docket for Executors', Administrators' and Guardians' Bonds, entry 184.

Record of guardians' bonds, showing date, amount, and conditions of bond; date of filing; and names of estate, wards, guardian, and sureties. Arr. chron. by dates of bonds. Indexed alph. by names of guardians. Hdw. 18 x 12 x 3. Clk. rec. rm.

184. DOCKET FOR EXECUTORS', ADMINISTRATORS' AND GUARDIANS' BONDS, 1853-June 13, 1865. 1 vol.

Record of administrators', executors', and guardians' bonds, showing dates of bond and filing; names of administrator, executor or guardian, estate, and sureties; and amount and conditions of bond. This is a combination of two records later kept separately: Administrators' Bonds, entry 180; and Guardians' Bonds, entry 183. Arr. chron. by dates of bonds. Indexed alph. by names of administrators, executors or guardians. Hdw. 600 pp. 18 x 13 x 2. Clk. rec. rm.

185. RECORD OF ADDITIONAL BONDS, 1863-80. 1 vol. 1881-62, 1881- in Final Record, entry 198.

Record of additional bonds posted by guardians, administrators, and executors to sell real estate, showing dates of bond and filing; names of estate and administrator, or executor, or guardianship and guardian, and sureties; and amount and conditions of bond. Arr. chron. by dates of bonds. Indexed alph. by names of guardians, administrators, or executors. Hdw. 18 x 16 x 3. Clk. rec. rm.

186. SALE [Real] E[state] BONDS, 1917-. 1 f. b. 1853-1909 in Probate [Causes], entry 167; 1910-16 in [Clerk's Miscellaneous Papers], entry 58.

Original bonds filed by commissioners appointed to sell real estate, showing date, amount, and conditions of bond; date of filing; and names of plaintiff, defendant, commissioner, and sureties. Arr. chron. by dates of filing. For index, see entry 59. Hdw. and typed. 11 x 5 x 14. Clk. off.

187. ADMINISTRATORS' LETTERS, 1865-1922. 4 vols. (2-5). 1853-64 in Docket for Letters Testamentary Administration and Guardianship, entry 189; 1923- in Order Book, Probate, entry 193.

Record of administrators' and executors' letters of appointment, showing dates of letters and filing, names of estate and administrator or executor, and certification of appointment. Arr. chron. by dates of filing. Indexed alph. by names of administrators or executors. Hdw. 600 pp. 13 x 12 x 3. Clk. rec. rm.

For original letters, see entry 179-ii.

188. GUARDIANS' LETTERS, Mar. 19, 1865-1922. 2 vols.
(2, 3). 1853-64 in Docket for Letters Testamentary Administration and Guardianship, entry 189.

Record of guardians' letters of appointment, showing dates of letter and filing; names of estate, guardian, and wards; and certification of appointment. Arr. chron. by dates of filing. Indexed alph. by names of guardians. Hdw. 600 pp. 16 x 12 x 2½. Clk. rec. rm.

189. DOCKET FOR LETTERS TESTAMENTARY ADMINISTRATION AND GUARDIANSHIP, 1853-June 13, 1865. 1 vol. (1).

Record of guardians', administrators', and executors' letters, showing dates of letter and filing, names of estate and administrator or executor or guardianship and guardian, and certification of appointment. This is a combination of two records later kept separately: Administrators' Letters, entry 187; and Guardians' Letters, entry 188. Arr. chron. by dates of filing. Indexed alph. by names of guardians. Hdw. 500 pp. 18 x 12 x 2½. Clk. rec. rm.

INVENTORIES AND SALE BILLS

190. INVENTORIES AND SALE BILLS, 1867-96, 1899-. 31 vols.
(1-15, 17-32). 1830-66 in Order Book, Probate, entry 193.

Record of inventories and sale bills, showing dates of inventory, appraisal, bill of sale, and receipt; cause number; names of decedent, appraisers, administrator or executor, and purchaser; description and appraised valuation of property; and amount and terms of sale. Arr. chron. by dates of inventories. Indexed alph. by names of decedents. Hdw. 600 pp. 18 x 12 x 3. 29 vols., 1867-96, 1899-1930, clk. rec. rm.; 2 vols., 1931-, clk. off.

MINUTES

191. BENCH DOCKET, 1839-. 32 vols. (1 vol. unlabeled; 1-31), 3 f. d.

Record of actions and proceedings in probate causes, showing dates of filing, court term, and proceedings; names of estate and administrator or executor or guardianship and guardian, attorneys, claimants, and heirs; and cause number. Arr. chron. by dates of court terms. No index. Hdw. Vols., 550 pp. 16 x 11 x 3; f. d., 11 x 15 x 25. 1 vol., 1839-62, clk. rec. rm.; 31 vols., 1863-1907, attic stor. rm.; 3 f. d., 1908-, judge of the cir. ct. off.

192. ESTATE DOCKET, 1865-1929. 14 vols. (1-14).

Record of actions and proceedings in estate causes, showing dates of filing, court term, and proceedings; names of administrator or executor, estate, heirs, and witnesses; cause number; and proceedings. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 576 pp. 18 x 12 x 3. Attic. stor. rm.

ORDERS

193. ORDER BOOK, PROBATE, 1827-. 104 vols. (1-8, 1-96).

Title varies: Order Book, Decedents' Estates, 1853-73, 16 vols.

Record of actions and proceedings in estate and guardianship causes, showing cause number; dates of court term, filing, proceedings, and court order; names of estate and administrator or executor, or guardianship and guardian, wards, sureties, and attorneys; and disposition of cause. Also contains: Record of Commissioner's Report of Partition of Real Estate, 1830-52, 1870-, entry 176; Administrators' Letters, 1923-, entry 187; and Inventories and Sale Bills, 1830-66, entry 190. Arr. chron. by dates of court terms. No index, 1827-52; indexed alph. by names of estate and administrator or executor or guardianship and guardians, 1853-. Hdw., 1827-June 19, 1917; typed, June 25, 1917-. 600 pp. 18 x 12 x 3. 100 vols., 1827-June 3, 1934, clk. rec. rm.; 4 vols., June 14, 1934-, cir. ct. rm.

194. INHERITANCE TAX BOOK, 1913-. 4 vols. (1-4).

Record of orders determining value of estates and amount of tax, showing cause number; dates of death of decedent, inventory, appraisement, and filing; names of estate, appraisers, heirs, and administrator or executor; location, description, and valuation of property; amount of deduction for indebtedness; and rate and amount of tax. Arr. num. by cause nos. Indexed alph. by names of estates. Hdw. 600 pp. 18 x 12 x 3. Judge of the cir. ct. off.

For other inheritance tax records, see entries 91, 195, 310, 311.

195. INHERITANCE, 1914-. 5 f. b. (21-25).

Orders determining value of estates and amount of tax, showing dates of decedent's death, notice, appraiser's report, court order, and filing; names of decedent, executor or administrator, attorney, heirs, and appraiser; cause number; value of estate; amount of claims and tax; and location and description of property. Arr. num. by cause nos. No index. Typed. 11 x 5 x 14. Clk. rec. rm.

For other inheritance tax records see entries, 91, 194, 310, 311.

JUDGMENTS AND EXECUTIONS

196. JUDGMENT DOCKET, CLAIMS, 1842-52, Sept. 18, 1860-. 6 vols. (1 vol. unlabeled; 2-6). 1853-59 in Judgment Docket [Common Pleas Court], entry 250.

Judgments rendered for claims filed against estates, showing dates of judgment and satisfaction; names of judgment debtor and creditor; amounts of judgment, interest, and costs; number and nature of cause; and receipt for satisfaction. Arr. chron. by dates of judgments. Indexed alph. by names of judgment debtors. Hdw. 588 pp. 18 x 12 x 3. 1 vol., 1842-52, clk. rec. rm.; 4 vols., Sept. 18, 1860-Nov. 6, 1905, attic stor. rm.; 1 vol., Dec. 15, 1905-, clk. off.

197. EXECUTION DOCKET [Probate], 1842-52. 1 vol. 1853-73 in Execution Docket, Common Pleas, entry 251; 1874- in Execution Docket, entry 140.

Record of executions of court decrees to satisfy judgments, showing dates of writs, judgment, and sheriff's return; names of plaintiff, defendant, attorneys, and judgment debtor; and amounts of judgment, interest, and costs. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 17 x 12 x 2½. Clk. rec. rm.

For execution records, see entries, 138-149, 237, 239, 251, 257, 263, 264.

COMPLETE TRANSCRIPTS

198. FINAL RECORD, 1830-. 154 vols. (1 vol. unlabeled; 1-12, 1-125, 127-133, 135-143).

Complete transcripts of actions and proceedings in estate and guardianship causes, showing dates of court term and filing; cause number; names of estate and administrator or executor, or guardianship and guardian, and attorneys; and court proceedings. Also contains: Record of Additional Bonds, 1831-62, 1881-, entry 185. Arr. chron. by dates of court terms. No index, 1830-52; indexed alph. by names of estates and guardianships, 1874-; for separate index, 1853-, see entry 199. Hdw., 1830-Feb. 17, 1904; typed, Feb. 18, 1904-. 576 pp. 18 x 12 x 3. Clk. rec. rm.

199. INDEX PROBATE RECORD, 1853-. 2 vols. (1; 1 vol. unlabeled).

Index to Final Record, entry 198, showing date of recording; names of estate, administrator or executor, and heirs or guardianship and guardians; and volume and page reference to recording. Arr. alph. by names of estates or guardianships. Hdw. 300 pp. 18 x 12 x 1½. Clk. rec. rm.

200. PROBATE FINAL RECORD PUBLICATIONS, 1922-. 3 vols. (126, 134; 1 vol. unlabeled). Title varies: Final Record, 1922-35, 2 vols.

Proofs of publication of notices of estate and guardianship actions, showing date of notice; names of estate or guardianship, administrator, executor or guardian, heirs, and attorneys; and name of publication. Arr. chron. by dates of notices. No index. Hdw. 640 pp. 18 x 12 x 3. 2 vols., 1922-35, clk. rec. rm.; 1 vol., 1936-, clk. off.

201. DOCKET, 1836-May 1852. 1 vol.

Record of final reports of guardians, administrators, and executors, showing dates of letters of appointment, approval of final report, and court term; and names of estate and administrator or executor or guardianship and guardian. Arr. chron. by dates of final reports. No index. Hdw. 500 pp. 16 x 12 x 3. Clk. rec. rm.

FEE AND CASH RECORDS

202. FEE BOOK, DECEDENTS' ESTATES, 1854-1912. 15 vols. (1-11, 13, 15, 17, 18). 1913- in Estate, Entry, Claim and Allowance Docket and Fee Book, entry 163.

Record of fees assessed in estate causes, showing cause number; date, nature, and amount of fee; date and amount of collection; and names of estate, administrator, and payer. Also contains: Guardians' Fee Book, 1854-July 22, 1895, entry 203. Arr. chron. by dates of collections. Indexed alph. by names of estates. Hdw. 576 pp. 18 x 11 x 3. Clk. rec. rm.

203. GUARDIANS' FEE BOOK, July 29, 1895-1912. 2 vols. (12, 14). 1854-July 22, 1895 in Fee Book, Decedent's Estate, entry 202; 1913- in Guardianship Docket and Fee Book, entry 165.

Record of fees assessed in guardianship causes, showing cause number; date, nature, and amount of fee; date and amount of collection; and names of guardianship, guardian, and payer. Arr. chron. by dates of collections. Indexed alph. by names of guardianships. Hdw. 200 pp. 18 x 11 x 3. Clk. rec. rm.

JUVENILE CAUSES

204. [JUVENILE COURT PAPERS], 1907-. 6 f. b. (4, 670, 675, 676, 681, 692).

Original documents filed in juvenile causes, including affidavits, warrants, subpoenas, and reports of probation officers,

showing dates of document and filing, number and nature of cause, names of juvenile and parent or guardian, and disposition of cause. Arr. chron. by dates of filing. For indexes, see entries 59, 157. Hdw. and typed. 11 x 5 x 14. Clk. rec. rm.

205. ORDER BOOK, 1907-. 2 vols. (1, 2).

Record of actions and proceedings in juvenile causes, showing dates of court term, filing, and proceedings; number and nature of cause; names, ages, and addresses of parents and juvenile; names of witnesses; and disposition of cause. Also contains: Riley Hospital Record, 1925-27, entry 124. Arr. chron. by dates of court terms. Indexed alph. by names of juvenile defendants. Hdw. 576 pp. 18 x 12 x 3. Cir. ct. rm.

MISCELLANEOUS RECORDS

206. [OPINIONS], 1826-. In [Clerk's Miscellaneous Papers], entry 58.

Copies of supreme and appellate court opinions, showing dates of appeal, opinion, and filing; cause number; names of plaintiff and defendant; and nature of action and opinion. For index, 1826-1902, see entry 207.

207. NOTICES AND OPINIONS, 1826-1902. 1 vol.

Index to [Opinions], entry 206, showing date of opinion, names of appellant and appellee, and file box reference. Arr. alph. by names of appellants. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

208. [GRAND JURY PAPERS], 1851-78, 1915-. 3 f. b. (392, 55, 56). 1879-1914 in [Clerk's Miscellaneous Papers], entry 58.

Contains:

- i. List of names of persons drawn for jury service, 1851-78, showing dates of court term and filing, and name and address of juror.
- ii. Orders issued by grand jury foreman to clerk to issue subpoenas, 1851-78, showing dates of order and filing, and names of persons to be subpoenaed, and grand jury foreman.
- iii. Reports of inspections of county jails and infirmaries, showing dates of inspection and report, names of grand jurors, summary of conditions of buildings, general welfare and number of inmates and prisoners, comments on supervision, and recommendations.

iv. Subpoenas issued to persons for appearance as witnesses before grand jury, 1915-, showing dates of issue, service, and appearance; name and address of witness; and cost of service. No obvious arrangement. For index, see entry 59. Hdw. and typed. 6 x 4 x 12. 1 f. b., 1851-78, attic stor. rm.; 2 f. b., 1915-, clk. rec. rm.

209. POWERS OF ATTORNEYS, 1879-. 5 f. b. (3, 5-7, 40). Authorizations of power of attorney, showing dates of authorization and filing, names of grantor and grantee, and nature of authorization. Arr. chron. by dates of filing. For index, 1879-91, see entry 59; 1892-, entry 210. Hdw. and typed. 4 f. b., 6 x 4 x 12; 1 f. b., 11 x 5 x 14. Clk. rec. rm.

210. INDEX POWER OF ATTORNEY, 1892-. 1 vol. Index to Powers of Attorney, entry 209, showing date of filing, names of grantor and grantee, and file box reference. Arr. alph. by names of grantors and grantees. Hdw. 500 pp. 18 x 12 x 3. Clk. rec. rm.

211. [ADMISSIONS TO BAR], 1826-. 1826-93 in Civil [Causes], entry 112; 1894- in [Clerk's Miscellaneous Papers], entry 58.

Copies of certificates of admission to bar, showing dates of certificate and filing; names of attorney, members of bar association, and chief justice; and clerk's certification.

212. [Bar] MEMBERS, 1827-. 1 vol.

Register of attorneys admitted to bar, showing date of admittance, and name of attorney. Arr. chron. by dates of admittance. No index. Hdw. 300 pp. 14 x 10 x 1½. Clk. off.

213. RECEIPTS FOR PAPERS, 1880-. 3 vols. (1 vol. unlabeled; 2, 3).

Record of court documents removed from clerk's office, showing dates of removal and return; cause number; and names of recipient, plaintiff, and defendant. Arr. chron. by dates of removals. Indexed alph. by names of plaintiffs. Hdw. 16 x 11 x 2. Clk. rec. rm.

214. [SUMMONS], 1826-. 1826-80 in Civil [Causes], entry 112; 1828-80 in Criminal [Causes], entry 156; 1875-80 in Superior [Causes], entry 228; 1881-, in [Clerk's Miscellaneous Papers], entry 58.

Orders to sheriff to summon jurors for jury duty, showing dates of order, appearance, and filing; names of jurors; and sheriff's return.

215. [CHANGE OF VENUE], 1870-. In [Clerk's Miscellaneous Papers], entry 58.

Receipts for papers in causes venued to other counties, showing

dates of receipt, venue, and filing; cause number; names of plaintiff, defendant, and foreign county; and nature of document.

For other change of venue records, see entries 216, 373-ix.

216. CERTIFICATES OF COSTS ON CHANGE OF VENUE, 1891-97, Mar. 11, 1903-. 3 vols. Title varies: Change of Venue Record, 1891-97, 1 vol.

Record of actions, proceedings, and costs in venued causes, showing dates of filing, trial, and disposition; names of plaintiff, defendant, jurors, and county; nature and number of cause; and itemized list of fees and costs. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 284 pp. 14 x 10 x 1½. 1 vol., 1891-97, clk. rec. rm.; 2 vols., Mar. 11, 1903-, clk. off.

For other change of venue records, see entries 215, 373-ix.

217. APPEAL BOND, 1913-. 1 f. b. 1870-1912 in [Clerk's Miscellaneous Papers], entry 58.

Bonds posted to insure costs in causes appealed to higher courts, showing dates of bond and filing, names of principal and sureties, and amount and conditions of bond. Arr. chron. by dates of filing. For index, see entry 59. Typed. 11 x 5 x 14. Clk. off.

218. COST BONDS, 1917-. 1 f. b. 1901-16 in [Clerk's Miscellaneous Papers], entry 58.

Bonds posted to insure payment of court costs, showing dates of bond and filing; names of plaintiff, defendant, and sureties; and amount and conditions of bond. Arr. chron. by dates of filing. For index, see entry 59. Typed. 11 x 5 x 14. Clk. off.

219. ATTACH[ment] BONDS, 1918-. 1 f. b. 1901-17 in [Clerk's Miscellaneous Papers], entry 58.

Bonds posted by plaintiffs for property attached to satisfy judgments, showing dates of bond, filing, and court term; names of plaintiff, defendant, and sureties; and amount and conditions of bond. Arr. chron. by dates of filing. For index, see entry 59. Typed. 11 x 5 x 14. Clk. off.

220. [DEPOSITIONS]. 1915-. 7 f. b. (40, 247-250, 274, 275). 1877-1914 in Civil [Causes], entry 112.

Testimonies obtained from witnesses unable to appear in court, showing dates of testimony and filing; names of plaintiff, defendant, and witness; and cause number. Arr. chron. by dates of filing. For index, see entry 59. Hdw. and typed. 6 x 4 x 12. Clk. rec. rm.

221. [LIST OF JURORS], 1932-. 1 f. b. 1831-60 in [Commissioners' Papers], entry 1; 1861-79, 1911-31 in [Clerk's Miscellaneous Papers], entry 58.

List of names of persons drawn for jury service, showing date of court term, names and addresses of jurors, and number of days served. Arr. chron. by dates of court terms. No index. Typed. 11 x 5 x 14. Judge of the cir. ct. off.

222. [GROSS INCOME TAX WARRANTS], 1934-. 1 f. b. (B3). Warrants issued to sheriff to levy on property of persons whose gross income taxes are delinquent, showing dates of issue, return, and filing; name and address of defendant; and amounts of tax, interest, penalty, damages, and remittance. Arr. chron. by dates of filing. For index, see entry 59. Hdw. and typed. 11 x 5 x 4. Clk. rec. rm.

223. [PUBLIC WELFARE PAPERS], 1936-. 1 f. d.

Contains:

- i. Certificates of appointment of members of board, showing dates of appointment and filing; name of judge; and names, addresses, and political affiliation of appointees.
- ii. Certificates of appointment of county director and office personnel, showing dates of appointment and filing, and names of appointees and members of board.
- iii. Copies of authorizations by board of public welfare to staff members to administer oaths and affirmations, showing dates of authorization, oath, and filing; and name and title of staff member.
- iv. Revocations of appointments, showing dates of revocation and filing, reason for revocation, and name of appointee.

Arr. chron. by dates of filing. No index. Hdw. and typed. 4 x 24 x 12. Clk. off.

224. [FEE BILLS], 1897-1927. 5 f. b. (80, 251-254).

Original writs of execution issued to sheriff to satisfy unpaid court costs and fees, showing cause number; dates of writ and sheriff's return; names of plaintiff, defendant, and judgment debtor; and itemized statement of fees and costs. Arr. chron. by dates of sheriff's returns. For index, see entry 59. Hdw. 6 x 4 x 12. Clk. rec. rm.

225. [CITATIONS], 1826-. 1826-82, 1889- in Civil [Causes], entry 112; 1883-88 in [Clerk's Miscellaneous Papers], entry 58.

Copies of citations issued to sheriff, showing dates of citation and filing, names of plaintiff and defendant, court decree, and clerk's certification.

VI. SUPERIOR COURT

LEGAL STATUS

The superior court, which has existed in Tippecanoe County ever since 1875 under the requirements of an act of 1875, consists of one judge elected for a 4-year term by the voters of Tippecanoe County. The official name of the court is "Superior Court of Tippecanoe County,"¹ and these words appear on the official seal of the court.²

The judge of the superior court is commissioned by the Governor of Indiana,³ and holds office until his successor is elected and qualified.⁴ For 3 years next before his candidacy for election, the judge must have been duly admitted to practice law in Indiana, and also must have practiced or taught law, or acted as an officer of the state or a municipality therein, during said time (the periods of practice, teaching, and holding office to be combined).⁵ During the term for which he was elected, the judge cannot hold any office of trust or profit under the state, other than a judicial office;⁶ and, while holding the office of judge of the superior court, he must reside within the county,⁷ must not hold any other lucrative office,⁸ and must not practice law.⁹ He must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.¹⁰

Statutes provide that the judge of the superior court shall receive a regular salary in the amount of \$4,200 per year, payable monthly out of the state treasury, and that additional compensation, not exceeding \$2,800 per year, payable monthly out of the county treasury, may be allowed by

¹ Acts 1875; Burns 4-1901; Baldwin 1688-1. Acts 1911; Burns 4-3221, 4-3222; Baldwin 1257 note, 1257.

² Acts 1875; Burns 4-1902; Baldwin 1688-2.

³ Const. 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁴ Const. 1851, art. 15, sec. 3. Acts 1875; Burns 4-1901; Baldwin 1688-1. Acts 1911; Burns 4-3222; Baldwin 1257.

⁵ Acts 1939; Burns, 1940 suppl., 4-3224; Baldwin, 1939 suppl., 1223-1.

⁶ Const. 1851, art. 7, sec. 16.

⁷ *Ibid.*, sec. 9.

⁸ *Ibid.*, art. 2, sec. 9.

⁹ Acts 1881 (Spec. Sess.), ch. 37, sec. 114. Acts 1905; Burns 10-3101; Baldwin 2635.

¹⁰ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

the board of commissioners.¹¹ The constitution provides that an increase or decrease in the compensation of a judge cannot take effect before the expiration of the incumbent's term of office.¹²

If the judge be convicted of corruption or other high crime, he may, on information in the name of the state, be removed from office by the supreme court.¹³ This is the only method by which he may be removed from office.¹⁴

Any vacancy in the office of judge is filled through appointment by the Governor. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), a judge is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath as was required of his predecessor, and holds office until his successor is elected and qualified.¹⁵

FUNCTIONS AND RECORDS

The superior court has original jurisdiction of naturalization proceedings under the Federal laws, habeas corpus proceedings, mandate proceedings, prohibition proceedings, actions by or against executors and administrators, and all other civil causes at law and in equity,¹⁶ as a court of general jurisdiction.¹⁷ The United States Department of Labor has never furnished to this court the necessary printed forms for naturalization proceedings, hence it has never exercised its naturalization jurisdiction.¹⁸

¹¹ Acts 1875; Burns 4-1923; Baldwin 1688-23. Acts 1921; Burns 4-3209; Baldwin 1225. Acts 1923; Burns 4-3213 to 4-3216; Baldwin 1233 to 1236.

¹² Const. 1851, art. 7, sec. 13; art. 15, sec. 2 (as amended in 1926).

¹³ *Ibid.*, art. 7, sec. 12. Acts 1897; Burns 49-819; Baldwin 13152.

¹⁴ *State v. Dearth*, 201 Ind. 1, 164 N. E. 489 (1929); *State ex rel. Youngblood v. Warrick* Circuit Court, 208 Ind. 594, 196 N. E. 254 (1935). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 29, 1939, by W. Davis Hamilton.

¹⁵ Const. 1851, art. 5, sec. 18. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-408, 49-409; Baldwin 13101, 13103, 13106, 13107. *State ex rel. Custer v. Schortemeier*, 197 Ind. 507, 151 N. E. 407 (1926); *State ex rel. Middleton v. Scott* Circuit Court, 214 Ind. 643, 17 N. E. (2d) 464 (1938).

¹⁶ Acts 1875; Burns 4-1910, 4-1914; Baldwin 1688-10, 1688-14.

Naturalization proceedings. U. S. Stat. 2:153, 155 (law of 1802); 4:69 (law of 1824). U. S. C., title 8, sec. 357 (laws of 1906, 1911, 1913).

¹⁷ Acts 1875; Burns 4-1912; Baldwin 1688-12.

¹⁸ Information obtained from Walter A. Kiefer, Assistant District Director of U. S. Immigration and Naturalization Service, Cincinnati District, on March 5, 1940, by W. Davis Hamilton.

The superior court has appellate jurisdiction to review decisions of justices of the peace in civil cases,¹⁹ city courts in civil cases,²⁰ board of commissioners,²¹ board of review fixing value of property for taxation,²² and board of public works and safety or board of park commissioners of any city in the county (or city council performing such functions).²³ The act creating this court provides that it shall have "all other appellate jurisdiction in civil causes now vested in or which may hereafter be vested by law in the circuit courts."²⁴

The superior court is a court of record. Its judgments, decrees, orders, and proceedings have the same force and effect as those of the circuit court, and are enforceable in the same manner.²⁵ The court has power to issue all writs, orders, judgments, and injunctions necessary and incidental to its jurisdiction aforesaid.²⁶ The process of the court must have the court seal affixed thereto, and must be attested, directed, served, and returned, and be in form, as is or may be provided by law for process issuing from the circuit court.²⁷

The court can make rules for conducting its business, not repugnant to the laws of this state; compel the attendance and testimony of witnesses; enforce its orders; and punish for contempt. The judge can administer oaths;²⁸ solemnize marriages;²⁹ give all necessary certificates for the authentication of the records and proceedings of the court;³⁰ issue licenses for carrying pistols;³¹ and can take and certify

¹⁹ Acts 1875; Burns 4-1910; Baldwin 1688-10. 2 Rev. Stat. 1852; Burns 5-1001; Baldwin 1931.

²⁰ Acts 1875; Burns 4-1910; Baldwin 1688-10. Acts 1917; Burns 4-2603; Baldwin 11608. Acts 1923; Burns 4-2802; Baldwin 12336.

²¹ Acts 1875; Burns 4-1910; Baldwin 1688-10. Acts 1879 (Spec. Sess.), 1885; Burns 26-820; Baldwin 5275. 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277. Acts 1923; Burns 27-117; Baldwin 5753. Acts 1905; Burns 36-1501; Baldwin 8858. State *ex rel.* Sink v. Cass Circuit Court, 214 Ind. 323, 15 N. E. (2d) 624 (1938).

²² Acts 1927; Burns 64-1020; Baldwin 15686.

²³ Acts 1933; Burns 48-4501; Baldwin 11576.

²⁴ Acts 1875; Burns 4-1910; Baldwin 1688-10.

²⁵ Acts 1875; Burns 4-1912; Baldwin 1688-12.

²⁶ Acts 1875; Burns 4-1913, 4-1914; Baldwin 1688-13, 1688-14.

²⁷ Acts 1875; Burns 4-1911; Baldwin 1688-11.

²⁸ Acts 1875; Burns 4-1915; Baldwin 1688-15. Acts 1861; Burns 49-601; Baldwin 13053.

²⁹ Acts 1875; Burns 4-1915; Baldwin 1688-15. Acts 1897; Burns 44-301; Baldwin 5621.

³⁰ Acts 1875; Burns 4-1915; Baldwin 1688-15.

³¹ Acts 1935, 1937; Burns, 1940 suppl., 10-4733; Baldwin, 1937 suppl., 2569-5.

acknowledgments and proofs of deeds and mortgages.³² Annually the judge appoints two members of the county board of tax adjustment.³³

The court must hold its sessions at the county courthouse or at such other convenient place as the board of commissioners or judge may provide at the county seat.³⁴

An act of 1941 provides for three terms of court each year. The January term begins on the 1st Monday in January and continues until the last Saturday before the 1st Monday in April. The April term begins on the 1st Monday in April and continues until the 4th Saturday in June. The September term begins on the 2d Monday in September and continues until the Saturday next preceding the 25th day of December.³⁵ Acts of 1875, 1877, and 1893 provided for four terms each year, lasting so long as the business of the court required, except that under the 1893 act the May term could not last longer than 6 weeks.³⁶

The judge may adjourn court from any one day in the term over to any other day of the same term or to the 1st day of the following term.³⁷ A term of court is automatically extended for the completion of any trial which was in progress at the time set by law for the expiration of the term.³⁸

In case the court is not formed at any time, or if any term thereof be interrupted by reason of the nonattendance of the judge, the clerk has authority to adjourn court from day to day, or until the next term, in which event all process and other proceedings shall be continued over accordingly.³⁹

If on account of death, sickness, or other casualty the judge fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.⁴⁰

³² Acts 1875; Burns 4-1915; Baldwin 1688-15. 1 Rev. Stat. 1852, Acts 1859; Burns 56-123; Baldwin 14674.

³³ Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

³⁴ Acts 1875; Burns 4-1905; Baldwin 1688-5.

³⁵ Acts 1941, ch. 5, sec. 1.

³⁶ Acts 1875, ch. 39, sec. 6. Acts 1877, ch. 33, sec. 1. Acts 1893, ch. 5, sec. 1.

³⁷ Acts 1875; Burns 4-1907; Baldwin 1688-7.

³⁸ Acts 1875; Burns 4-1908; Baldwin 1688-8.

³⁹ Acts 1875; Burns 4-1909; Baldwin 1688-9.

⁴⁰ Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

If the regular judge be disqualified in any particular case by prejudice, relationship, or interest, and no party objects to the regular judge making nominations for a special judge, the regular judge may designate the names of three other judges or attorneys, and the plaintiff and defendant may each strike one of such names. The person whose name remains after such striking may serve as special judge in that particular cause. If a party objects to the regular judge making such nominations, the clerk certifies the facts to the clerk of the supreme court, who, acting under the direction of the supreme court, selects the names of three persons; and each party may strike one name as aforesaid. If the parties agree on the selection of a special judge, the regular judge will appoint the person thus selected.⁴¹

Any cause in which the judge is interested must be transferred to the circuit court when no special judge is obtained for hearing and disposition in the superior court.⁴²

Causes pending in the circuit court which could have been commenced in the superior court may be transferred by the circuit court to the superior court.⁴³

Changes of venue may be taken from the superior court in the same manner as from the circuit court, except as stated hereinafter. When an affidavit for a change of venue states that the county is a party to the suit, that the convenience of witnesses and ends of justice would be promoted by a change, that the opposite party has an undue influence over the citizens of the county, or that an odium attaches to the applicant or to his cause of action or defense on account of local prejudice, some judge of a circuit court or superior court must be called to hear and determine the application. If any charge specified above be sustained at such hearing, a change of venue to a circuit court of another county must be ordered.⁴⁴

Decisions of the superior court are reviewable by the Supreme Court of Indiana or the Appellate Court of Indiana.⁴⁵

⁴¹ Acts 1905, 1907; Burns 2-1409; Baldwin 207. Acts 1937; Burns, 1940 suppl., 2-1424 to 2-1430, 9-1316 to 9-1325; Baldwin, 1937 suppl., 207-1 to 207-5, 194-1, 2223-1, 2222-1 to 2222-5, 2223-2 to 2223-5.

⁴² Acts 1875; Burns 4-1916; Baldwin 1688-16.

⁴³ Acts 1905; Burns 4-304; Baldwin 1419 note.

⁴⁴ 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 207, p. 74. Acts 1881 (Spec. Sess); Burns 2-1401; Baldwin 190. Acts 1875; Burns 4-1917; Baldwin 1688-17.

⁴⁵ 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 550. Acts 1901, 1907, 1915, 1925; Burns 4-214; Baldwin 1356. Acts 1875; Burns 4-1922; Baldwin 1688-22.

Jurors are selected for service in the superior court in the same manner as in the circuit court.⁴⁶ Jurors and witnesses in the superior court receive the same fees as in the circuit court.⁴⁷

The court reporter (appointed by the judge for an indefinite term) takes down in shorthand, and thereafter transcribes into typewriting, as directed by the court or parties, the oral evidence, rulings, instructions to the jury, and other proceedings of the court.⁴⁸

The court page (appointed by the court for an indefinite term when needed) serves as messenger for the judge and clerk, and performs other minor duties assigned to him by the judge.⁴⁹

The clerk of the circuit court and the county sheriff serve as clerk and sheriff, respectively, of the superior court, and perform services for the superior court similar to those performed by them concerning civil causes in the circuit court.⁵⁰

Bailiffs (appointed by the judge) wait on the juries and preserve order during their deliberations and absences from the courtroom. The sheriff performs these duties in the absence of the bailiffs or when no bailiff has been appointed.⁵¹

The clerk charges in the superior court the same docket fees as those charged in the circuit court, and pays the same to the county treasurer, to be applied in reimbursing the county for the expenses of the superior court.⁵²

The clerk, under the direction of the judge, must provide order books, judgment dockets, execution dockets, fee books, and such other books as may be necessary for the use of the court. All books, papers, and proceedings of the superior court must be kept distinct and separate from those of other courts.⁵³

⁴⁶ Acts 1875; Burns 4-1920; Baldwin 1688-20. See the essay entitled "Jury Commissioners."

⁴⁷ Acts 1875; Burns 4-1921; Baldwin 1688-21.

⁴⁸ Acts 1881 (Spec. Sess.), ch. 89. Acts 1899, 1927; Burns 4-3501 to 4-3511; Baldwin 1288 to 1292, 1298, 1298-1, 1776, 1297-1, 1293, 1300. *Adams v. State*, 214 Ind. 603, 17 N. E. (2d) 84 (1938).

⁴⁹ *Dunn v. State ex rel. Corydon*, 204 Ind. 390, 184 N. E. 535 (1933). *Opinions of the Attorney General of Indiana*, 1939, p. 312.

⁵⁰ Acts 1875; Burns 4-1903, 4-1904; Baldwin 1688-3, 1688-4.

⁵¹ Acts 1921, 1935; Burns, 1940 suppl., 4-3107; Baldwin, 1935 suppl., 1256.

⁵² Acts 1875; Burns 4-1919; Baldwin 1688-19.

⁵³ Acts 1875; Burns 4-1918; Baldwin 1688-18.

CIVIL CAUSES

FILING OF ACTIONS

226. ENTRY, ISSUE DOCKET AND FEE BOOK, 1913-. 19 vols. (18-36).

Record of filing of actions, causes set for trial, and fees and costs assessed in civil causes, showing nature and number of cause; dates of filing, sheriff's return, proceedings, collection, and payment of fees and costs; names of plaintiff, defendant, attorneys, and witnesses; itemized amount of fees and costs; and volume and page reference to Order Book, entry 234. This is a combination of two records formerly kept separately: Entry Book, entry 227; and Fee Book, Superior Court, 242. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 289 pp. 18 x 12 x 3. Clk. off.

227. ENTRY BOOK, 1879-1912. 8 vols. (1-8). 1913- in Entry, Issue Docket & Fee Book, entry 226.

Record of filing of actions in civil causes, showing dates of filing, issuing process, proceedings, and judgment; nature and number of cause; and names of plaintiff, defendant, and attorneys. Arr. chron. by dates of filing. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 18 x 12 x 3. 5 vols., 1879-Jan. 1909, attic stor. rm.; 3 vols., Feb. 1909-12, clk. rec. rm.

ORIGINAL DOCUMENTS

228. SUPERIOR [Causes], 1875-. 737 f. b. (1-737). Also 1875-80 in [Clerk's Miscellaneous Papers], entry 58.

Original documents filed in civil causes, including complaints, summons, petitions, proofs of publication, answers, denials, demurrers, powers of attorney, executions, orders to stay, attachments, certificates of sale, and receipts, showing dates of document and filing; nature and number of cause; names of plaintiff, defendant, attorneys, and witnesses; and proceedings. Also contains: [Summons], 1875-80, entry 214; [Stay of Executions], 1875-76, 1885-, entry 239. Arr. num. by cause nos. For index, see entry 229; for separate index to executions, 1875-98, see entry 238. Hdw. and typed. 316 f. b., 6 x 4 x 12; 421 f. b., 11 x 5 x 14. Clk. rec. rm.

229. GENERAL INDEX, CASES, 1875-. 2 vols. (1, 2). Title varies: Index, 1875-Sept. 1895, 1 vol.

Index to Superior [Causes], entry 228, showing names of plaintiff and defendant, cause number, and file box reference. Arr. alph. by names of plaintiffs. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

230. [PENDING CAUSES], 1912-. 5 f. d. (labeled by cause nos.).

Original documents in pending civil causes, showing information as in entry 228. Arr. num. by cause nos. For index, see entry 231. Hdw. and typed. 12 x 14 x 18. Super. ct. off.

231. INDEX TO CAUSES, 1912-. 1 vol.

Index to [Pending Causes], entry 230, showing names of plaintiff and defendant, cause number, and file box reference. Arr. alph. by names of plaintiffs and defendants. Hdw. 580 pp. 18 x 12 x 3. Super. ct. rm.

MINUTES

232. BENCH DOCKET, 1875-. 33 vols. (1-33), 5 f. d.

Record of actions and proceedings in civil causes, showing dates of filing, court term, and proceedings; number and nature of cause; names of plaintiff, defendant, attorneys, and witnesses; and action taken. Arr. chron. by dates of court terms. No index. Hdw. Vols., 480 pp. 18 x 12 x 3; f. d., 12 x 14 x 24. 33 vols., 1875-1908, attic stor. rm.; 5 f. d., 1909-, super. ct. off.

233. DRAINAGE RECORD, 1883-89, 1913-. 5 vols. (1, 1-4). 1890-1912 in Order Book, entry 234.

Record of actions and proceedings in drainage causes, showing dates of filing and proceedings; names of plaintiff, defendant, petitioners, and witnesses; cause number; name, location, and description of ditch; amount of land benefited or damaged; amounts of estimated costs, allotments, and bids; and action taken. Also contains: Miscellaneous Record, 1883-88, entry 30; and Notarial Bonds, 1883-88, entry 33. Arr. chron. by dates of proceedings. Indexed alph. by names of plaintiffs. Hdw., 1883-89; typed, 1913-. 576 pp. 18 x 12 x 3. 2 vols., 1883-89, 1913-19, clk. rec. rm.; 3 vols., 1920-, super. ct. off.

ORDERS

234. ORDER BOOK, 1875-. 64 vols. (1-64).

Record of verdicts returned and judgments and orders of court, showing dates of court term and proceedings, nature and number of cause, names of plaintiff and defendant, and action taken. Also contains: Drainage Record, 1890-1912, entry 233. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw., 1875-Sept. 27, 1908; typed, Sept. 28, 1908-. 576 pp. 18 x 13 x 3. 60 vols., 1875-Mar. 12, 1934, clk. rec. rm.; 4 vols., Mar. 12, 1934-, super. ct. off.

JUDGMENTS

235. JUDGMENT DOCKET, 1875-. 13 vols. (1-13).

Record of judgments rendered in civil causes, showing dates of judgment, assignments, and satisfaction; cause number; names of plaintiff, defendant, and judgment debtor; amounts of judgment, costs, and fees; and volume and page reference to Order Book, entry 234. Arr. num. by cause nos. Indexed alph. by names of judgment debtors. Hdw. 520 pp. 16 x 11 x 3. 10 vols., 1875-Apr. 26, 1926, clk. rec. rm.; 3 vols., Apr. 27, 1926-, clk. off.

226. JUDGMENT DOCKET, Aug. 7, 1888-Jan. 24, 1893. 1 vol. (5).

Transcript of volume five of Judgment Docket, entry 235, showing information as in entry 235. Arr. num. by cause nos. Indexed alph. by names of judgment debtors. Hdw. 520 pp. 16 x 11 x 3. Attic stor. rm.

EXECUTIONS (see also entries, 138-149, 197, 251, 257, 263, 264).

237. EXECUTION DOCKET, 1875-. 10 vols. (1-10).

Record of writs issued for executions of judgments, showing cause number; names of plaintiff and defendant; dates of judgment, writ, and sheriff's return; location and description of property; and amounts of judgment, interest, and costs. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs and defendants. For separate index, 1875-98, see entry 238. Hdw. 350 pp. 18 x 12 x 3. 9 vols., 1875-Jan. 20, 1931, clk. rec. rm.; 1 vol., Jan. 21, 1931-, clk. off.

238. EXECUTION INDEX SUPERIOR COURT, 1875-98. 1 vol.

Index to executions in Superior [Causes], entry 228; Execution Docket, entry 237, showing date of filing; names of plaintiff, defendant, and judgment debtor; file box reference; and volume and page reference to recording. Arr. alph. by names of judgment debtors. Hdw. 500 pp. 18 x 12 x 3. Clk. rec. rm.

239. [STAY OF EXECUTION], 1875-. 1875-76, 1885- in Superior [Causes], entry 228; 1877-84 in [Clerk's Miscellaneous Papers], entry 58.

Orders for stay of execution, showing dates of order and filing, names of defendant and sureties, nature of order, signature of judge, and clerk's certification.

COMPLETE TRANSCRIPTS

240. FINAL RECORD, 1875-1919. 1923-. 31 vols. (1-31).

Complete transcripts of actions and proceedings in civil causes, showing dates of court term, transcript, trial,

issuance of summons, and return; number and nature of cause; names of plaintiff, defendant, and attorneys, proceedings of court; and action taken. Arr. chron. by dates of court terms. Indexed alph. by names of plaintiffs and defendants. For separate index, see entry 241. Hdw., 1875-1905; typed, 1906-19, 1923-. 576 pp. 18 x 13 x 3½. 30 vols., 1875-1919, clk. rec. rm.; 1 vol., 1923-, super. ct. off.

241. INDEX FINAL RECORD, 1875-1919, 1923-. 1 vol. (1). Index to Final Record, entry 240, showing names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiffs. Hdw. 400 pp. 16 x 11 x 2½. Clk. rec. rm.

FEE AND CASH RECORDS

242. FEE BOOK, SUPERIOR COURT, 1875-1912. 17 vols. (1-17). 1913- in Entry, Issue Docket and Fee Book, entry 226.

Record of fees and costs assessed in civil causes, showing cause number; date and amount of collection; and names of plaintiff, defendant, payer, and payee. Arr. num. by cause nos. Indexed alph. by names of plaintiffs. Hdw. 18 x 12 x 3. Clk. rec. rm.

243. WITNESSES FEE BOOK, 1887-Sept. 1907. 1 vol. (2). Record of receipts and disbursements of witnesses' fees, showing nature and number of cause; dates of receipt and disbursement; names of plaintiff, defendant, and witnesses; and amount of fees. Arr. chron. by dates of receipts. Indexed alph. by names of plaintiffs and defendants. Hdw. 308 pp. 18 x 12 x 2½. Clk. rec. rm.

VII. CRIMINAL CIRCUIT COURT (1867-75)

LEGAL STATUS

From 1867 until 1875 Tippecanoe County had a court officially known as the "Tippecanoe Criminal Circuit Court," composed of one judge elected for a 4-year term by the voters of the county.¹

¹ Acts 1867, ch. 26, secs. 1, 3, 4. Acts 1869 (Spec. Sess.), ch. 25, secs. 1-3. Acts 1873, ch. 33, sec. 1. Acts 1875, ch. 39, sec. 25. Leander J. Monks, *Courts and Lawyers of Indiana* (1916), 3:1038.

The criminal circuit court was an "inferior court" within the meaning of Const., 1851, art. 7, sec. 1, and the judge's term of office was within the scope of Const. 1851, art. 15, sec. 2.

FUNCTIONS AND RECORDS

The criminal circuit court had original jurisdiction (exclusive as against the circuit court and court of common pleas) of all criminal cases under the state laws, except offenses punishable only by fines not exceeding \$3, and had appellate jurisdiction (concurrent with the circuit court) to review decisions of justices of the peace and city courts in criminal cases under state laws.² The court was open at all times for criminal trials. Terms of court commenced on the 1st Monday of April and October.³ Decisions of this court were reviewable by the Supreme Court of Indiana.⁴

The county sheriff and the clerk of the circuit court performed duties for the criminal circuit court similar to the duties they had previously performed for the circuit court in criminal cases.⁵ The criminal circuit court had a prosecuting attorney other than the prosecuting attorney for the judicial circuit (composed of more than one county) to which the circuit court belonged.⁶

In 1875 the general assembly abolished the criminal circuit court and transferred its jurisdiction and business to the circuit court.⁷

244. BENCH DOCKET, CRIMINAL, 1867-75. 2 vols. (1, 2). Record of actions and proceedings in criminal causes, showing dates of filing, court term, proceedings, and sheriff's return; names of defendant, attorneys, and witnesses; and nature and number of cause. Arr. chron. by dates of court terms. No index. Hdw. 540 pp. 18 x 12 x 3. Clk. rec. rm.

For other criminal records, see entries 136, 137, 154-162, 245.

Clem v. State, 33 Ind. 418 (1870); Cropsey v. Henderson, 63 Ind. 263 (1878); Hench v. State *ex rel.* O'Rourke, 72 Ind. 297 (1880).

² Acts 1865 (Spec. Sess.), ch. 45. Acts 1867, ch. 15, sec. 17; ch. 16; ch. 26, secs. 1, 2, 5. Acts 1873, ch. 33, sec. 1. Eitel v. State, 33 Ind. 201 (1870); Clem v. State, 33 Ind. 418 (1870); Mulen v. State, 34 Ind. 540 (1870); State *ex rel.* Cropper v. Murdock, 86 Ind. 124 (1882); Board of County Comrs. v. Albright, 168 Ind. 564, 81 N. E. 573 (1907).

Juvenile offenders. Acts 1867, ch. 67 (misnumbered 62), secs. 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30. Acts 1875, ch. 45. Acts 1879, ch. 58.

³ Acts 1867, ch. 26, sec. 2.

⁴ 2 Rev. Stat. 1352, pt. 2, ch. 1, sec. 550.

⁵ Acts 1867, ch. 26, sec. 1. Acts 1873, ch. 33, sec. 1.

⁶ Acts 1867, ch. 26, secs. 3, 4. See the essay entitled "Prosecuting Attorney, Criminal Circuit Court (1867-75)."

⁷ Acts 1875, ch. 39, secs. 25, 26.

245. FINAL RECORD, CRIMINAL, 1867-75. 1 vol. (1).

Complete transcripts of actions and proceedings in criminal causes, showing dates of transcript, court term, and proceedings; names of defendant, attorneys, and witnesses; and number and nature of cause. Arr. chron. by dates of court terms. Indexed alph. by names of defendants. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

For other criminal records, see entries 136, 137, 154-162, 244.

VIII. COURT OF COMMON PLEAS (1853-73)

LEGAL STATUS

From 1853 until 1873 Tippecanoe County had a court officially known as "The Court of Common Pleas of Tippecanoe County," composed of one judge. The judge was elected for a 4-year term by the voters of the judicial district and was commissioned by the Governor.¹ The district was composed of the counties of Tippecanoe and White from 1853 until March 1, 1859; Benton, Carroll, Tippecanoe, and White from March 1, 1859 until March 11, 1867; and Tippecanoe and Warren after March 11, 1867.² The law provided that any vacancy in the office of judge was to be filled through appointment by the Governor.³

FUNCTIONS AND RECORDS

The court of common pleas had exclusive original jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. The court also had concurrent original jurisdiction of dower proceedings; partition proceedings; ne exeat proceedings; habeas corpus proceedings; the appointment of commissioners to execute

¹ 1 Rev. Stat. 1852, ch. 19, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, secs. 1, 3, p. 16. Acts 1859, ch. 51, sec. 1. Jones v. Cavins, 4 Ind. 305 (1853). See footnote 16 herein.

² 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec. 1. Acts 1867, ch. 30, sec. 1.

³ 1 Rev. Stat. 1852, ch. 115, sec. 2. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 2, p. 16.

deeds on title bonds given by deceased obligors; naturalization proceedings under the Federal laws after March 5, 1859; juvenile matters after March 8, 1867; and, except as herein-after stated otherwise, all equity suits (including divorce and injunction), all civil actions at law, and all criminal cases. The court had no jurisdiction of civil actions at law for damages resulting from slander, libel, or breach of contract to marry; civil cases in which title to real estate was in issue; civil cases on bonds of state and county officers; criminal offenses punishable by death; and offenses punishable only by fine not exceeding \$3. Before March 5, 1859 the court had no jurisdiction of civil cases to recover less than \$50 or more than \$1,000, except that a consent judgment could be rendered for more than \$1,000. The court had jurisdiction of felonies only in the following instances: (a) When the defendant was in custody on a felony charge before indictment by the grand jury; (b) when the person accused of a felony voluntarily submitted himself to the jurisdiction of the court while on bail and before an indictment was returned by a grand jury in any other court; (c) when the accused person obtained a change of venue from the circuit court to the court of common pleas; and (d) when, after March 5, 1859, the supreme court had reversed a conviction by the circuit court, the defendant was in custody, and the circuit court was not in session.⁴ The court had no

⁴ 2 Rev. Stat. 1852, pt. 1, ch. 4, sec. 5; ch. 8, secs. 4, 5, 7, 9, 11, 12, 14, 17, 21, 23, 25, 41; pt. 2, ch. 1, sec. 716. Acts 1853, ch. 30, sec. 1. Acts 1857, ch. 21, sec. 1. Acts 1859, ch. 52. Acts 1865 (Spec. Sess.), ch. 58.

Naturalization proceedings. U. S. Stat. 2: 153, 155 (law of 1802); 4: 69 (law of 1824).

Forcible entry and detainer cases against tenants holding over. Acts 1853, ch. 31, sec. 1.

Bastardy and surety of the peace. Acts 1853, ch. 5, secs. 1, 2.

Juvenile matters. Acts 1867 (misnumbered 62), secs. 1, 10-19, 22, 23. Acts 1869 (Spec. Sess.), ch. 32, secs. 19-26, 35, 36. Acts 1872 (Spec. Sess.), ch. 30.

Suits on bonds of justices of the peace. *Mills v. State ex rel. Barbour*, 10 Ind. 114 (1858).

Divorce. *Herron v. Herron*, 16 Ind. 129 (1861); *Ewing v. Ewing*, 24 Ind. 463 (1865).

Injunctions. *Beard v. Dennis*, 6 Ind. 200 (1855).

Actions on recognizances for appearances in circuit court. *McCole v. State ex rel. Chipman*, 10 Ind. 50 (1858).

Suits involving validity of wills (exclusive original jurisdiction). *Goodrich v. Posey*, 15 Ind. 329 (1860).

Actions against guardians. *Hollingsworth v. State ex rel. Harvey*, 8 Ind. 257 (1856).

Suit to set aside fraudulent settlement of administrator. *Beard v. First Presbyterian Church*, 15 Ind. 490 (1861).

jurisdiction of any criminal cases after the establishment of the criminal court in 1867.⁵ No appellate jurisdiction was vested in the court of common pleas.⁶

The court of common pleas was a court of record. Its judgments had the same force and effect as those of the circuit court, and were enforced in the same manner.⁷ The court of common pleas could compel the attendance and testimony of witnesses; punish for contempt; and issue all writs and orders necessary and incidental to the exercise of the jurisdiction mentioned in the preceding paragraph.⁸ The judge could solemnize marriages; take acknowledgments of deeds; take and certify depositions in any case not pending in his own court; and act as accounting officer or master in chancery in any cause referred to him by the circuit court.⁹ He served as judge of the court of conciliation from 1853 until 1865.¹⁰

Any case in which the judge was disqualified could be transferred to the circuit court for disposition.¹¹ Decisions of the court of common pleas were reviewable by the circuit court or supreme court.¹²

The clerk of the circuit court and the county sheriff served as clerk and sheriff, respectively, of the court of common pleas, and performed for the court of common pleas duties similar to those which they now perform for the

Appointment of commissioners to execute deeds on title bonds given by deceased obligors. *Cortner v. Amick*, 13 Ind. 463 (1859).

Amount or value in controversy. *Thew v. Gaskill*, 10 Ind. 265 (1858); *Brown v. Lewis*, 10 Ind. 232 (1858); *Harvey v. Ferguson*, 10 Ind. 393 (1858); *Murdock v. Wheeler*, 13 Ind. 472 (1859); *Kiger v. Franklin*, 15 Ind. 102 (1860); *Holcroft v. Halbert*, 16 Ind. 256 (1861).

Title to real estate. *McClure v. White*, 9 Ind. 208 (1857); *Vaughn v. Stuzaker*, 16 Ind. 338 (1861).

Criminal cases. *Spencer v. State*, 5 Ind. 41 (1854); *Johnson v. State*, 14 Ind. 574 (1860); *McCarty v. State*, 16 Ind. 310 (1861).

⁵ See the essay entitled "Criminal Circuit Court (1867-75)."

⁶ *Board of County Comrs. v. Weasner*, 10 Ind. 259 (1858); *Board of County Comrs. v. Brown*, 10 Ind. 545 (1858).

⁷ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 24, p. 20.

⁸ *Ibid.*, sec. 28, p. 21.

⁹ *Ibid.*, sec. 35, p. 22.

¹⁰ See the essay entitled "Court of Conciliation (1853-65)."

¹¹ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 10, p. 18.

¹² *Ibid.*, secs. 13, 20, 22, pp. 18, 19; pt. 2, ch. 1, sec. 550, p. 158; ch. 10, secs. 189-193, p. 291; ch. 11, secs. 42-46, p. 319. Acts 1853, ch. 5, secs. 1, 2; ch. 34, sec. 2. Acts 1857, ch. 21, sec. 1.

circuit court while that court is exercising jurisdiction which was vested in the court of common pleas.¹³ From 1853 until 1867 the district attorney prosecuted criminal cases in the court of common pleas.¹⁴

The court held four regular terms a year before August 6, 1859 and three regular terms a year thereafter. Adjourned terms could be held after March 3, 1855. Each regular term could last 3 weeks before March 3, 1855 and as long as the business of the court required after March 3, 1855.¹⁵

The court of common pleas was abolished on March 6, 1873, and its jurisdiction and business were transferred to the circuit court.¹⁶

246. COMMON PLEAS [Causes], 1853-72. 169 f. b. (1-169).

Also 1853-72 in [Clerk's Miscellaneous Papers], entry 58.

Original documents filed in civil and criminal causes, including complaints, affidavits, bonds, oaths, motions, writs, notices, proofs of publication, petitions, answers, demurrers, denials, powers of attorney, orders and certificates of sales, appraisements, attachments, reports, orders to stay and receipts, showing dates of document and filing; names of plaintiff, defendant, witnesses, and attorneys; nature and number of cause; amount of fees assessed; and action taken. Arr. num. by cause nos. For indexes, see entries 59, 247. Hdw. 6 x 4 x 12. Clk. rec. rm.

247. CIVIL INDEX, COMMON PLEAS, 1853-72. 2 vols. (1 vol. unlabeled; 2).

Index to Common Pleas [Causes], entry 246, showing names of plaintiff and defendant, cause number, and file box reference. Arr. alph. by names of plaintiffs. Hdw. 400 pp. 18 x 12 x 2. Clk. rec. rm.

248. BENCH DOCKET, 1853-73. 14 vols. (1-14).

Record of actions and proceedings in civil and criminal causes in common pleas court, showing dates of filing, court term, and proceedings; number and nature of cause; names of plaintiff, defendant, attorneys, and witnesses; and action taken.

¹³ 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 25, p. 20.

¹⁴ See the essay entitled "District Attorney (1853-73)."

¹⁵ Acts 1853, ch. 33, sec. 1. Acts 1855, ch. 27, secs. 80, 94; ch. 30, sec. 1. Acts 1859, ch. 47, sec. 15; ch. 51, sec. 3. Acts 1861, ch. 31, sec. 1. Acts 1861 (Spec. Sess.), ch. 24, sec. 1. Acts 1867, ch. 30, sec. 2. Acts 1872 (Spec. Sess.), ch. 16, sec. 1. *Thew v Gaskill*, 10 Ind. 265 (1858).

¹⁶ Acts 1873, ch. 29, secs. 79-88.

Arr. chron. by dates of court terms. No index. Hdw. 500 pp. 18 x 12 x 3. Clk. rec. rm.

249. ORDER BOOK, COMMON PLEAS, Mar. 1853-Apr. 1873. 24 vols. (1-24).

Record of verdicts returned and judgments and orders of court in civil and criminal causes, showing information as in entry 134. Arr. chron. by dates of orders. Indexed alph. by names of plaintiffs and defendants. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

250. JUDGMENT DOCKET, COMMON PLEAS, 1853-73. 8 vols. (1-8).

Record of judgments rendered in civil and criminal causes, showing information as in entry 136. Also contains: Judgment Docket Claims, 1853-59, entry 196. Arr. chron. by dates of judgments. Indexed alph. by names of judgment debtors. Hdw. 500 pp. 18 x 12 x 2. Clk. rec. rm.

251. EXECUTION DOCKET, COMMON PLEAS, Nov. 1853-Nov. 18, 1881. 14 vols. (1-14).

Record of writs for execution of judgments, showing information as in entry 140. Also contains: Execution Docket [Probate], 1853-73, entry 197. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs and defendants. Hdw. 550 pp. 18 x 12 x 3. Clk. rec. rm.

For other execution records, see entries, 128-149, 197, 237-239, 257, 263, 264.

252. FINAL RECORD, COMMON PLEAS, 1853-72. 21 vols. (1-3, 1-18).

Complete transcripts of actions and proceedings in civil and criminal causes, showing dates of transcript, trial, issuance of summons, and return; number and nature of cause; names of plaintiff, defendant, and attorneys; proceedings of court; and disposition of cause. Arr. chron. by dates of transcripts. For index, see entry 253. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

253. INDEX FINAL, 1853-72. 1 vol.

Index to Final Record, Common Pleas, entry 252, showing date of court term, names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiffs and defendants. Hdw. 400 pp. 16 x 11 x 2. Clk. rec. rm.

254. FEE BOOK, 1853-83. 16 vols. (1-16).

Record of fees and costs assessed in civil and criminal causes of common pleas court, showing nature and number of cause; names of plaintiff, defendant, payer; itemized list of fees and costs; and date and amount of collection. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 16 x 12 x 2½. Clk. rec. rm.

IX. PROBATE COURT (1829-53)

LEGAL STATUS

From 1829 until 1853 Tippecanoe County had a court officially known as "The Probate Court of Tippecanoe County," composed of one judge who was elected for a 7-year term by the voters of the county and commissioned by the Governor. Before any person could be commissioned as a judge of the probate court, he was required to obtain from a judge of the supreme court or from a president judge of a circuit court a certificate showing he was qualified to discharge the duties of such office.¹

FUNCTIONS AND RECORDS

The probate court had exclusive original jurisdiction of insanity inquests and commitments; the probate of wills; the granting and revocation of letters testamentary, letters of administration, and letters of guardianship; the administration of estates of decedents, minors, and insane persons; and the examination and allowance of accounts of executors, administrators, and guardians. From 1831 until 1853 the court also had concurrent original jurisdiction of proceedings for the authorization of the sale of guardianship property and civil cases at law and in equity upon all demands or causes of action in favor of or against heirs, devisees, legatees, executors, administrators, or guardians, and their sureties and representatives. From 1829 until 1833 the court had jurisdiction of partition proceedings in connection with the administration of decedents' estates. From 1833 until 1853 the court had unlimited concurrent original jurisdiction of partition proceedings and dower proceedings. From 1834 until 1853 the court had concurrent original jurisdiction of proceedings for the appointment of commissioners to execute deeds on title bonds given by deceased obligors.²

¹ Acts 1828-29, ch. 26, secs. 1, 2. Rev. L. 1831, ch. 25, secs. 1, 2, 4. Rev. Stat. 1838, ch. 24, secs. 1, 2, 4. Rev. Stat. 1843, ch. 4, secs. 2, 9, 72; ch. 5, sec. 1; ch. 39, secs. 1-3. See footnote 11 herein.

² Acts 1828-29, ch. 26, secs. 2, 5, 6, 53-55. Rev. L. 1831, ch. 25, secs. 4, 19, 22, 31, 37, 39, 47, 57. Acts 1832-33, ch. 79, secs. 9, 10. Acts 1833-34, ch. 38, secs. 1, 2. Rev. Stat. 1838, ch. 24, secs. 4, 5; ch. 77, sec. 10. Rev. Stat. 1843, ch. 39, secs. 5, 6.

No general jurisdiction in chancery except in relation to the administration of guardianship and decedents' estates. *West v. Thornburg*, 6 Blackf. 542 (1843); *Powell v. North*, 3 Ind. 392 (1852).

No appellate jurisdiction was vested in the probate court.³

The court could compel the attendance and testimony of witnesses; enforce its judgments and orders; punish for contempt; and issue all writs and orders necessary and incidental to the exercise of the jurisdiction mentioned in the preceding paragraph.⁴ The judge could solemnize marriages from 1829 until 1838 and from 1843 until 1853.⁵

The clerk of the circuit court and the county sheriff served as clerk and sheriff, respectively, of the probate court, and performed for the probate court duties similar to those which they now perform for the circuit court while that court is exercising jurisdiction which was vested in the probate court.⁶

The court held six terms a year from 1829 until February 3, 1832 and four terms a year thereafter. The maximum duration of terms was as follows: 1829 until February 3, 1832, 3 days; February 3, 1832 until December 23, 1846, 6 days; December 23, 1846 until January 2, 1849 and after January 19, 1850, 14 days; and from January 2, 1849 until January 19, 1850, 12 days.⁷

Any matter within the jurisdiction of the probate court could be heard and disposed of by the circuit court in the same manner as the probate court, when the judge of the latter

Sale of guardianship property. *Graeter v. Wise*, 5 Blackf. 403 (1840); *Coon v. Cook*, 6 Ind. 268 (1855).

Suit against heirs of deceased vendee for specific performance of contract for sale of real estate. *Boyle v. Moss*, 4 Blackf. 535 (1838).

Suit to enforce vendor's lien on real estate. *West v. Thornburg*, 6 Blackf. 542 (1843).
Partition proceedings. *Taylor v. Connor*, 7 Ind. 115 (1855).

Amount in controversy in suits in favor of or against heirs, executors, etc. *Brown v. McQueen*, 6 Blackf. 208 (1842); *High v. Taylor*, 6 Blackf. 555 (1843).

Limitation on right to trial by jury. Rev. Stat. 1838, ch. 24, sec. 34.

³ *Board of County Comrs. v. Weasner*, 10 Ind. 259 (1858).

⁴ Acts 1828-29, ch. 26, secs. 2, 6, 7. Rev. L. 1831, ch. 25, secs. 4, 5, 49. Rev. Stat. 1838, ch. 24, secs. 5, 11. Rev. Stat. 1843, ch. 39, secs. 11, 13, 30.

⁵ Acts 1828-29, ch. 26, sec. 62. Rev. L. 1831, ch. 63, sec. 2. Rev. Stat. 1838, ch. 68, sec. 2. Rev. Stat. 1843, ch. 35, sec. 6.

⁶ Acts 1828-29, ch. 26, secs. 3, 15; ch. 29, sec. 6. Rev. L. 1831, ch. 25, secs. 7-10, 15, 16, 18, 19, 22, 23, 32, 48. Rev. Stat. 1838, ch. 24, secs. 7, 9, 10, 15, 18, 19, 23, 24, 29, 34, 38, 46, 55. Rev. Stat. 1843, ch. 39, secs. 23, 42-45.

⁷ Acts 1828-29, ch. 26, sec. 59. Acts 1831-32, ch. 159, sec. 1. Rev. Stat. 1838, ch. 24, sec. 68. Rev. Stat. 1843, ch. 39, sec. 40. Acts 1843-44 (general), ch. 14, sec. 3. Acts 1844-45 (general), ch. 74, sec. 2. Acts 1846-47 (general), ch. 45, sec. 1. Acts 1848-49 (general), ch. 38, sec. 3. Acts 1849-50 (general), ch. 51, sec. 1.

court was disqualified from acting.⁸ After June 15, 1852 the judge of the circuit court could hold regular terms of the probate court when the judge of the probate court failed to do so.⁹ Decisions of the probate court were reviewable by the circuit court or the supreme court.¹⁰

The probate court was abolished in 1853, and its jurisdiction and business were transferred to the court of common pleas, which had broader jurisdiction than the probate court.¹¹

X. COURT OF COMMON PLEAS (1848-52)

LEGAL STATUS

From 1848 until 1852 Tippecanoe County had a court officially known as the "Tippecanoe Court of Common Pleas," composed of one judge¹ appointed by joint ballot of both branches of the general assembly. The judge was commissioned by the Governor of Indiana² for a term of 7 years.³

FUNCTIONS AND RECORDS

This court had original jurisdiction (concurrent with the circuit court) of all civil cases at law and in equity, and had appellate jurisdiction (concurrent with the circuit court) to review decisions of justices of the peace (civil cases only) and the board of commissioners.⁴ The judge could issue all necessary writs and orders in chancery cases, in vacation as well as in termtime,⁵ and could administer oaths, take and certify depositions, take and certify the proof or acknowledgment of deeds, and solemnize marriages.⁶ Judgments

⁸ Acts 1829-30, ch. 29, sec. 7. Rev. L., 1831, ch. 25, sec. 6. Rev. Stat. 1838, ch. 24, sec. 6. Rev. Stat. 1843, ch. 39, sec. 9.

⁹ Acts 1851-52, ch. 34, secs. 1, 3.

¹⁰ Acts 1828-29, ch. 26, sec. 4. Rev. L. 1831, ch. 24, sec. 7; ch. 25, sec. 52. Acts 1832-33, ch. 79, secs. 9, 10. Rev. Stat. 1838, ch. 24, sec. 12; ch. 25, secs. 13, 16. Rev. Stat. 1843, ch. 37, secs. 1, 9, 70; ch. 39, secs. 33-36.

¹¹ 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43. Acts 1853, ch. 30, sec. 1. Jones v. Cavins, 4 Ind. 305 (1853). See the essay entitled "Court of Common Pleas (1853-73)."

¹ Acts 1847-48 (general), ch. 34, sec. 1. Acts 1851-52, ch. 32, sec. 1.

² Acts 1847-48 (general), ch. 34, sec. 3.

³ *Ibid.*, sec. 4.

⁴ *Ibid.*, sec. 10. Acts 1848-49 (general), ch. 46, sec. 1, 2.

⁵ Acts 1847-48 (general), ch. 34, sec. 11.

⁶ Acts 1848-49 (general), ch. 46, sec. 2.

of this court had the same lien, force, and effect in the county as the judgments of the circuit court.⁷ Decisions of the court of common pleas were reviewable by the circuit court or supreme court.⁸

The court held terms commencing on the 1st Monday of January, April, July, and October, each lasting as long as the business of the court required.⁹

This court was abolished in 1852, and its business was transferred to the circuit court.¹⁰

255. ORDER BOOK, COMMON PLEAS, Apr. 3, 1848-Oct. 1851.
2 vols. (1, 2).

Record of judgments and orders of court in civil causes, showing dates of court term and order, names of plaintiff and defendant, cause number, nature of action, and judgment and order of court. Arr. chron. by dates of orders. Indexed alph. by names of plaintiffs and defendants. Hdw. 576 pp. 18 x 12 x 3. Clk. rec. rm.

256. JUDGMENT DOCKET, COMMON PLEAS, 1848-51. 1 vol. (1). Record of judgments rendered in civil causes, showing information as in entry 235. Arr. chron. by dates of judgments. Indexed alph. by names of judgment debtors. Hdw. 500 pp. 18 x 12 x 3. Clk. rec. rm.

257. EXECUTION DOCKET, COMMON PLEAS, 1848-52. 1 vol. (1). Record of writs issued for execution of judgments, showing cause number; dates of judgment, writ, and sheriff's return; names of plaintiff, defendant, and attorneys; location and description of property; and amounts of judgment, interest, and costs. Arr. chron. by dates of writs. Indexed alph. by names of plaintiffs and defendants. Hdw. 550 pp. 18 x 12 x 3. Clk. rec. rm.

For other execution records, see entries, 138-149, 197, 237-239, 251, 263, 264.

258. FINAL RECORD, COMMON PLEAS, 1848-52. 1 vol. (1). Complete transcripts of actions and proceedings in civil causes, showing dates of transcript, trial, issuance of summons, and return; number and nature of cause; names of plaintiff, defendant, and attorneys; proceedings of court; and disposition of cause. Arr. chron. by dates of transcripts. No index. Hdw. 600 pp. 18 x 12 x 3. Clk. rec. rm.

⁷ Acts 1847-48 (general), ch. 34, sec. 36.

⁸ *Ibid.*, secs. 12, 13. Acts 1848-49 (general), ch. 46, sec. 2.

⁹ Acts 1847-48 (general), ch. 34, sec. 14.

¹⁰ Acts 1851-52, ch. 32.

259. FEE BOOK, 1848-51. 2 vols. (1, 2).

Record of fees and costs assessed in civil causes of common pleas court, showing nature and number of cause; names of plaintiff, defendant, and payer; itemized list of fees and costs; and date and amount of collection. Arr. num. by cause nos. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 16 x 12 x 2½. Clk. rec. rm.

XI. COURT OF CONCILIATION (1853-65)

LEGAL STATUS

From 1853 until 1865 Tippecanoe County had a court officially known as the "Tippecanoe Court of Conciliation." The judge of the court of common pleas was ex officio judge of the court of conciliation.¹

FUNCTIONS AND RECORDS

The court of conciliation, which was a court of record,² had jurisdiction of civil claims and controversies submitted to it for the purpose of effecting a compromise or for determination, where the parties agreed to abide the judgment of the court. The law did not authorize an appeal to another court.³

When a reconciliation was effected, the judge entered in a book of record a memorandum thereof, signed by the respective parties, stating the nature of the controversy, or the alleged cause of action, the appearance of both parties, and the facts of the reconciliation. The terms of the reconciliation were not stated unless the parties agreed to specify them. The reconciliation thus effected was the final determination of the matter in controversy.⁴ When the parties agreed to a judgment in favor of one against the other in settlement of their differences, the judgment was entered at the foot of the entry of reconciliation. A transcript of such judgment certified by the judge was filed in the office of the clerk of the court of common pleas, and had the same

¹ Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2, sec. 2, p. 224. Acts 1865 (Spec. Sess.), ch. 57. See the essay entitled "Court of Common Pleas (1853-73)."

The Revised Statutes of 1852 took effect on May 6, 1853. Jones v. Cavins, 4 Ind. 305 (1853).

² Beach v. Woolford, 7 Ind. 351 (1855).

³ Const. 1851, art. 7, sec. 19. 2 Rev. Stat. 1852, pt. 2, ch. 2, sec. 1, p. 224.

⁴ 2 Rev. Stat. 1852, pt. 2, ch. 2, secs. 6, 13, pp. 225, 226.

effect, and could be enforced in the same manner, as a judgment of the court of common pleas.⁵

When any cause of action was claimed by or against any person for which a civil action might be brought, or when a controversy existed between two or more persons arising out of such alleged cause of action, the parties could appear before the court of conciliation, at any place within the county in which either party resided, for the purpose of effecting a compromise or of having a determination of all or any of such claims or controversies;⁶ and, upon the appearance of the parties, it was the duty of the court to require them respectively to state the nature of the controversy between them, and present such claim as alleged. The statement could be made orally or in writing.⁷

When the parties, without a reconciliation, voluntarily submitted their matters of difference to the court for determination and agreed to abide the judgment, such submission was entered in a book of record and signed by the respective parties. On the hearing the court could take the statements of the parties, with or without oath. These controversies were determined according to conscience and right without regard to technical rules. The judgment had the same effect, and could be enforced in the same manner, as a judgment of the court of common pleas.⁸

The admissions and declarations (other than the entry of conciliation or judgment) made by the parties in proceedings before the court of conciliation were not binding in any other judicial proceedings.⁹

On claims for libel, slander, assault and battery, false imprisonment, and malicious prosecution, the complaining party could give written notice to the opposite party informing him of the claim and requiring him to appear at a specified place and time, in relation thereto, within 5 days, before the court of conciliation.¹⁰ The notice could be served by the sheriff or any other person, in the same manner as a summons in a civil action.¹¹ At the time specified

⁵ *Ibid.*, secs. 7, 13.

⁶ *Ibid.*, sec. 11, p. 226.

⁷ *Ibid.*, sec. 12.

⁸ *Ibid.*, secs. 14, 18.

⁹ *Ibid.*, sec. 20, p. 227.

¹⁰ *Ibid.*, sec. 3, p. 224.

¹¹ *Ibid.*, sec. 4.

in the notice, or at a later date set by the court, the parties were received by the judge, apart from all other persons, except that infants were attended by a guardian, and a female was attended by her husband or friend. The judge heard the allegations of the parties; informed them of their rights; endeavored to reconcile their differences; and advised such a compromise of the claim or controversy as he deemed just.¹² If, after the service of such notice, either party failed to appear, or if the parties appeared and did not become reconciled or did not submit the matter for determination, the judge made an entry in a book of record, stating the nature of the charge, the notice given, the proof of such service, and the failure of either party to appear or the appearance of the parties and their failure to become reconciled.¹³ The entries in such book of record, or certified copies thereof, signed by the judge, were evidence of the facts therein stated; and it was the duty of the judge to give a transcript of the entries in any case, certified by him, from his record, to either party on request.¹⁴ In any cause of action thereafter brought for recovery of damages for a cause of action mentioned above, except when the defendant was arrested, the plaintiff could not recover costs unless he produced such certified copy at the trial, and unless it thereby appeared that the notice was duly served, and that he appeared pursuant thereto, or that both parties appeared without notice. The defendant could not recover costs in such action when it appeared that he failed to appear pursuant to such notice.¹⁵

The court of conciliation was abolished in 1865, and no such tribunal has existed since then.¹⁶

XII. MASTER COMMISSIONER

LEGAL STATUS

The office of master commissioner has existed in Tippecanoe County since 1853 under the authority of acts of 1853 and 1881. The commissioner is appointed by the judge

¹² *Ibid.*, sec. 5.

¹³ *Ibid.*, sec. 8, p. 225.

¹⁴ *Ibid.*, sec. 9.

¹⁵ *Ibid.*, sec. 10. Nelson v. Turner, 7 Ind. 36 (1855).

¹⁶ Acts 1865 (Spec. Sess.), ch. 57.

of the circuit court or the judge of the superior court, and continues in office until removed by the court. As many master commissioners as are needed may be appointed.¹

The master commissioner must be a competent attorney in good standing; must be a resident of the county seat;² and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.³

He receives the same fees as other officers for similar services; and when no fees are specified, the court allows, for the services performed, such compensation as is just and reasonable.⁴

From 1826 until 1853 the judge could appoint masters in chancery.⁵ The powers and duties of a master in chancery were substantially the same as those of the present master commissioner.⁶

FUNCTIONS AND RECORDS

The master commissioner is an officer of the circuit court or superior court, and assists the court in various ways when so directed by it. He decides and reports upon such matters of accounts and practices as may be referred to him; performs, under the direction of the court, all the duties which, according to the practice in chancery, pertain to this office; and has the powers and discharges the duties performed by masters in chancery before 1853.⁷

The master commissioner takes and certifies affidavits,

¹ Acts 1853, ch. 70, sec. 1. Acts 1875; Burns 4-1914; Baldwin 1688-14. Acts 1881 (Spec. Sess.); Burns 4-3401; Baldwin 1280.

² Acts 1881 (Spec. Sess.); Burns 4-3401; Baldwin 1280.

³ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101. Acts 1853, ch. 70, sec. 2. Acts 1881 (Spec. Sess.); Burns 4-3402; Baldwin 1281.

⁴ Acts 1881 (Spec. Sess.); Burns 4-3406, 4-3407; Baldwin 1285, 1286.

⁵ Acts 1819-20, ch. 11, sec. 1. Rev. L. 1824, ch. 73, sec. 30. Rev. L. 1831, ch. 72, sec. 33. Rev. Stat. 1838, ch. 80, sec. 33. Rev. Stat. 1843, ch. 4, sec. 50.

⁶ Acts 1819-20, ch. 11, sec. 3. Rev. L. 1824, ch. 73, sec. 33. Rev. L. 1831, ch. 72, sec. 33. Acts 1835-36 (general), ch. 23, sec. 1. Rev. Stat. 1838, ch. 80 (first act), sec. 33; ch. 80 (third act). Rev. Stat. 1843, ch. 4, secs. 86, 87. Acts 1853, ch. 70, sec. 7.

These citations for the powers and duties of the master in chancery are also included in the footnotes covering the powers and duties of the master commissioner.

⁷ Acts 1819-20, ch. 11, sec. 3. Rev. Stat. 1843, ch. 4, secs. 86, 87. Acts 1853, ch. 70, sec.

7. Acts 1881 (Spec. Sess.); Burns 4-3407; Baldwin 1286.

attestations, and acknowledgments;⁸ takes depositions;⁹ and administers oaths and affirmations.¹⁰

He has power to issue subpoenas for such witnesses as are to appear before him, to compel their attendance, and to punish for contempt;¹¹ and has power, under the direction of the court, to sell and convey real estate.¹²

The act of 1881 provided: "Whenever the office of judge shall become vacant, or, in case of the absence of all the judges competent to act, or whenever such judge or judges, by reason of interest, is or are incompetent to act, or unable by reason of sickness, such master commissioner shall have all the power of any judge in vacation, to grant restraining orders, injunctions, writs of habeas corpus, and writs of ne exeat, and to appoint receivers, and hear and determine all motions and matters, and make all orders concerning the same."¹³ In 1881 the Supreme Court of Indiana held that judicial powers could not be conferred on a master commissioner, that all powers attempted to be conferred by this section were judicial, and that the entire section was void.¹⁴

When any matter is referred to a master commissioner to examine and report thereon, he must assign a time and place for proceeding therein, give notice thereof to each of the parties or their counsel, and proceed with all responsible diligence in such reference and with the least possible delay. He regulates such proceedings; has full authority to examine the parties in the cause upon oath; may require the production of all books, papers, vouchers, writings, and documents relating to such matters; may examine all witnesses produced by the parties before him; may order, to be read before him, the depositions of witnesses taken under a dedimus;

⁸ Acts 1819-20, ch. 11, sec. 3. Rev. L. 1824, ch. 73, sec. 32. Rev. L. 1831, ch. 72, sec. 33. Rev. Stat. 1838, ch. 80 (first act), sec. 33; ch. 80 (third act). Rev. Stat. 1843, ch. 4, secs. 86, 87. Acts 1853, ch. 70, sec. 4. Acts 1881 (Spec. Sess.); Burns 4-3404; Baldwin 1283.

⁹ Acts 1819-20, ch. 11, sec. 3. Rev. Stat. 1838, ch. 80 (third act). Rev. Stat. 1843, ch. 4, secs. 86, 87. Acts 1853, ch. 70, sec. 4. Acts 1881 (Spec. Sess.); Burns 4-3404; Baldwin 1283.

¹⁰ Acts 1819-20, ch. 11, sec. 3. Rev. L. 1824, ch. 73, sec. 32. Rev. L. 1831, ch. 72, sec. 33. Rev. Stat. 1838, ch. 80 (first act), sec. 33; ch. 80 (third act). Rev. Stat. 1843, ch. 4, secs. 86, 87. Acts 1853, ch. 70, sec. 4. Acts 1881 (Spec. Sess.); Burns 4-3404; Baldwin 1283.

¹¹ Rev. Stat. 1838, ch. 80 (third act). Rev. Stat. 1843, ch. 4, secs. 86, 87. Acts 1853, ch. 70, sec. 4. Acts 1881 (Spec. Sess.); Burns 4-3404; Baldwin 1283.

¹² Acts 1853, ch. 70, sec. 3. Acts 1881 (Spec. Sess.); Burns 4-3403; Baldwin 1282.

¹³ Acts 1881 (Spec. Sess.); Burns 4-3408; Baldwin 1287.

¹⁴ Shultz v. McPheeters, 79 Ind. 373 (1881).

may direct the mode in which the evidence shall be proved before him; and may direct all inquiries and proceedings necessary and proper to the justice and merits of the case and rights of the parties.¹⁵

The master reports his findings to the court for its action. Exceptions to such report may be taken by the parties and heard by the court.¹⁶

XIII. JURY COMMISSIONERS

LEGAL STATUS

Under a mandatory act of 1881, Tippecanoe County has two jury commissioners appointed annually by the judge of the circuit court. The commissioners must be electors of the county; must be of good moral character; must be of opposite politics; and must not be a party to or be interested in any cause pending in the county which may be tried by jury.¹ One commissioner must be a resident of the town or city in which the court is held.²

Each commissioner must take an oath that he will honestly, and without favor or prejudice, perform the duties of jury commissioner during his term of office; that, in selecting persons to be drawn as jurors, he will select none but persons whom he believes to be of good repute for intelligence and honesty; that he will select none whom he has been or may be requested to select; and that in all of his selections he will endeavor to promote only the impartial administration of justice.³

When a vacancy exists in the office, or when any commissioner fails to act when required, the judge of the circuit court must appoint some person to fill such vacancy or to act for the time being; and the appointee must possess the qualifications and take the same oath as was required of his predecessor. As compensation for his services, each

¹⁵ Rev. Stat. 1843, ch. 46, secs. 69-72. Acts 1853, ch. 70, sec. 7. Acts 1881 (Spec. Sess.); Burns 4-3407; Baldwin 1286.

¹⁶ Rev. L. 1831, ch. 72, sec. 33. Rev. Stat. 1838, ch. 80, sec. 33. Rev. Stat. 1843, ch. 46, secs. 78, 79. Acts 1881 (Spec. Sess.); Burns 4-3407; Baldwin 1286.

¹ Acts 1881 (Spec. Sess.), 1899; Burns 4-3301, 4-3302; Baldwin 1266, 1274.

² Acts 1899; Burns 4-3301; Baldwin 1266. Dale v. State, 200 Ind. 408, 164 N. E. 260.

³ Acts 1881 (Spec. Sess.), 1899; Burns 4-3001; Baldwin 1266.

commissioner receives a per diem fixed by the judge of the circuit court.⁴

FUNCTIONS AND RECORDS

Immediately after qualifying, the commissioners select the names of twice as many persons as will be required by law for service as grand and petit jurors in the courts of the county, for all the terms of courts within the calendar year next ensuing. These names are of legal voters and citizens of the United States; are taken from the current tax duplicates and schedules; are written on separate slips of paper; and are deposited in a jury box furnished by the clerk of the circuit court.⁵ After depositing therein the names so selected, the box is locked and turned over to the clerk of the circuit court. The key to the box is retained by the commissioner who is not an adherent of the same political party as is the clerk.⁶

At 10 a. m. on the Monday immediately preceding the commencement of any term of court, or at any time following said hour which may be practicable for such drawing, the clerk shakes the box; opens it in his office in the presence of the jury commissioners; and publicly draws therefrom such number of names of competent persons as the judge of such court shall order to be summoned as prospective jurors of such court.⁷

From 1852 until 1881 the board of commissioners selected the names from which grand jurors were drawn;⁸ and the treasurer, auditor, and recorder selected the names from which petit jurors were drawn.⁹ Prior to 1852 the board of commissioners selected the names from which both grand and petit jurors were drawn.¹⁰

⁴ Acts 1881 (Spec. Sess.), 1939; Burns, 1940 suppl., 4-3303; Baldwin, 1939 suppl., 1275.

⁵ Acts 1881 (Spec. Sess.), 1939; Burns, 1940 suppl., 4-3304; Baldwin, 1939 suppl., 1267.

⁶ *Ibid.*

⁷ Acts 1937; Burns, 1940 suppl., 4-3320; Baldwin, 1937 suppl., 1267-1.

⁸ 2 Rev. Stat. 1852, pt. 3, ch. 4, sec. 2, p. 387. Acts 1875 (Spec. Sess.), ch. 12, sec. 2.

⁹ 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1.

¹⁰ Acts 1817-18 (general), ch. 48, secs. 1, 2. Rev. L. 1824, ch. 56, secs. 1, 2, 5. Acts 1825, ch. 16, sec. 7. Acts 1826-27, ch. 26, secs. 1, 3. Rev. L. 1831, ch. 53, secs. 1, 4, 5. Rev. Stat. 1838, ch. 57, secs. 1, 4, 5. Acts 1840-41 (general), ch. 44. Rev. Stat. 1843, ch. 50, secs. 1, 3, 4, 7, 10.

XIV. PROBATION OFFICER

LEGAL STATUS

Tippecanoe County has had a probation officer since 1929 under the authority of a permissive act of 1927. He is appointed for an indefinite term by the judge of the circuit court and may be removed by the judge at any time. His authority expires with the expiration of the judge's term. Recommendations for the discharge of a probation officer may be made by the state probation department.¹

He must have successfully passed an examination conducted by the state probation department, and been certified by such department, which determines all eligibility requirements.² He must be at least 21 years old; must be of good moral character; must be a citizen of the state; and must be (a) a college graduate, or (b) a high school graduate with 1 year's experience in social welfare work, or (c) have had 4 years' experience as a paid probation officer.³

He receives a salary in an amount fixed by the judge, not exceeding \$2,500 per year. On allowance of the judge, the probation officer receives the actual expenses necessarily incurred by him in the performance of his official duties.⁴

When required by the judge the probation officer must post bond in an amount fixed by the judge. The bond is approved and kept by the judge.⁵ He must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁶

FUNCTIONS AND RECORDS

The probation officer acts under the direction of the court and under the supervision of the state probation department. He investigates all cases referred to him for investigation by the court; furnishes to each probationer a written statement of the conditions of probation and instructs

¹ Const. 1851, art. 15, sec. 2. Acts 1927; Burns 9-2212; Baldwin 2363. Acts 1933; Burns 9-2904; Baldwin 15340. *Opinions of the Attorney General of Indiana, 1933*, p. 581; 1935, p. 166. Civil Order Book 112, p. 601.

² Acts 1933; Burns 9-2904; Baldwin 15340.

³ Information obtained from Mrs. Emory T. Scholl, director of the state probation department, on January 28, 1941, by William E. Chambers.

⁴ Acts 1927; Burns 9-2212; Baldwin 2363. Acts 1933; Burns 9-2905; Baldwin 15341.

⁵ Acts 1927; Burns 2213; Baldwin 2364.

⁶ Const. 1851, art. 15, sec. 4.

him regarding the same; keeps informed concerning the conduct and condition of each probationer under his supervision by visiting, requiring reports, and otherwise aids and encourages probationers to improve their conduct and condition; collects and issues receipts for money due from probationers; acts as parole officer over persons released on parole from any correctional institution upon request of authorities thereof and consent of the appointing judge; and has the power of a constable or sheriff in the execution of his duties.⁷

He may take under his supervision probationers transferred from the jurisdiction of another court by sending to such court a written notice bearing the written approval of the judge of the court to which he is attached.⁸

He must attend conferences of probation officers or of judges arranged by the state probation department for a study of probation problems.⁹

The probation officer must keep a detailed record of his work and an accurate and complete account of all moneys collected by him. From time to time he reports to the judge concerning the conduct and condition of probationers, the moneys collected by him, and other information required by the judge. Such reports are made monthly and at the expiration of probation period of any probationer, and at such other times as required by the court.¹⁰

The duties of this office must be performed by the county director of public welfare when an order of the circuit court so requires.¹¹

260. [PROBATION OFFICER'S REPORTS], 1937-. 1 f. d.

Copies of probation officer's monthly reports to state probation commission of adult and child delinquency cases, showing date of reports; names of probationer, county, judge, and probation officer; and number of cases, transfers, investigations, visits, and interviews. Arr. chron. by dates of reports. No index. Typed. 12 x 14 x 24. Probation offr. off.

⁷ Acts 1927; Burns 9-2212, 9-2213; Baldwin 2363, 2364. Acts 1903, 1905, 1907, 1913; Burns 9-2814, 9-2815; Baldwin 1761, 1762. Acts 1933; Burns 9-2903; Baldwin 15339. Acts 1921; Burns 28-509; Baldwin 6702.

⁸ Acts 1927; Burns 9-2214; Baldwin 2365.

⁹ Acts 1933; Burns 9-2905; Baldwin 15341.

¹⁰ Acts 1927; Burns 9-2211, 9-2213; Baldwin 2362, 2364.

¹¹ Acts 1936; Burns, 1940 suppl., 52-1120; Baldwin, 1937 suppl., 14078-21.

XV. SHERIFF

LEGAL STATUS

The office of sheriff has existed in Tippecanoe County ever since 1826 under the mandatory requirements of the Constitution of 1816 and the Constitution of 1851. The sheriff is elected for a 2-year term by the voters of the county. No person is eligible to hold the office more than 4 years in any 6-year period.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The sheriff must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁴ must reside within the county after his election,⁵ must not hold any other lucrative office,⁶ and must not practice law.⁷ He must post bond in an amount between \$5,000 and \$15,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁸ The sheriff must take an

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 2, sec. 11; art. 6, sec. 2. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13; ch. 19, secs. 5, 6. Rev. L. 1824, ch. 35, sec. 13; ch. 59, sec. 1; ch. 100, secs. 5, 6, 8. Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act). Rev. L. 1831, ch. 97, sec. 5. Rev. Stat. 1838, ch. 99 (first act), sec. 5. Rev. Stat. 1843, ch. 4, secs. 1, 10. 2 Rev. Stat. 1852; Burns 49-2801; Baldwin 5493. *Gemmer v. State ex rel. Stephens*, 163 Ind. 150, 71 N. E. 478 (1904).

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 9, sec. 13; ch. 13, secs. 1, 8. Acts 1817-18 (general), ch. 19, secs. 1, 6-8. Rev. L. 1824, ch. 100, secs. 1, 6. Rev. L. 1831, ch. 97, sec. 1. Rev. Stat. 1835, ch. 99 (first act), secs. 1, 6. Rev. Stat. 1843, ch. 4, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5. Acts 1817-18 (special), ch. 3, sec. 4. Rev. Stat. 1838, ch. 99 (first act), sec. 5.

⁴ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁵ Const. 1816, art. 11, sec. 6. Const. 1851, art. 6, sec. 6.

⁶ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

⁷ Rev. L. 1824, ch. 3, sec. 6. Rev. Stat. 1838, ch. 8 (first act), sec. 6. Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State*, 27 Ind. 491 (1867).

⁸ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1817-18 (general), ch. 19, secs. 2-4, 7. Acts 1818-19, ch. 8, sec. 2. Acts 1821-22, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 69, sec. 4; ch. 86, sec. 18; ch. 100, secs. 2, 8. Acts 1825, ch. 24, sec. 3. Acts 1826-27, ch. 49, sec. 2. Rev. L. 1831, ch. 97, secs. 2, 3. Rev. Stat. 1833, ch. 76; ch. 99 (first act), secs. 3, 7, 8. Rev. Stat. 1843, ch. 4, secs. 86, 101; ch. 38, secs. 69, 70. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493.

oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹ Before 1853 he was entitled to certain exemptions from arrest.¹⁰

The sheriff receives a regular salary of \$3,120 per year.¹¹ He is permitted to retain, as compensation for himself, the fees charged for his services in the execution of process issued by courts outside of the county and in the collection of gross income taxes as directed by the state department of treasury. If the sheriff furnishes and maintains the vehicles used in the discharge of his official duties, he is entitled to a mileage allowance at the rate of 6 cents per mile for each mile necessarily traveled in serving process, transporting persons to penal and benevolent institutions, and going for and returning fugitives.¹² For each meal served to the prisoners in his charge, the sheriff receives an allowance not exceeding 20 cents, as determined annually by the state examiner.¹³

⁹ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 19, secs. 4, 8. Rev. L. 1824, ch. 100, sec. 4. Rev. L. 1831, ch. 97, secs. 4, 8. Rev. Stat. 1838, ch. 99 (first act), sec. 4. Rev. Stat. 1843, ch. 4, secs. 77, 92; ch. 38, sec. 71. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057. Acts 1937; Burns, 1939 suppl., 49-2801; Baldwin, 1937 suppl., 5493. State *ex rel.* Chapman v. Lines 4 Ind. 351 (1853).

¹⁰ Acts 1817-18 (general), ch. 54, sec. 3. Rev. L. 1824, ch. 78, sec. 3. Rev. Stat. 1843, ch. 52, sec. 6. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing the foregoing laws).

¹¹ Acts 1816-17, ch. 19, sec. 16. Acts 1817-18 (general), ch. 40, sec. 10; ch. 42, sec. 23. Acts 1825, ch. 17, sec. 8. Acts 1827-28, ch. 80, sec. 5. Acts 1828-29, ch. 16, sec. 9. Rev. L. 1831, ch. 20, sec. 26. Rev. Stat. 1838, ch. 4 (first act), sec. 1; ch. 21, sec. 26; ch. 23 (first act), sec. 9; ch. 33, sec. 12. Rev. Stat. 1843, ch. 7, sec. 27. 1 Rev. Stat. 1852, ch. 3, sec. 4; ch. 20, sec. 25. Acts 1933; Burns, 49-1004; Baldwin 7534. Acts 1879 (Spec. Sess.); Burns 49-2808; Baldwin 5503.

¹² Acts 1822-23, ch. 27, sec. 6; ch. 91, sec. 2. Rev. L. 1824, ch. 29, secs. 83, 84; ch. 41, secs. 2, 12. Rev. Stat. 1843, ch. 55, sec. 101. 1 Rev. Stat. 1852, ch. 70, sec. 1. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1933, 1937; Burns, 1939 suppl., 49-1008; Baldwin, 1937 suppl., 7538. Acts 1932 (Spec. Sess.); Burns 49-1315, 49-1316; Baldwin 7573, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1933, 1937; Burns, 1939 suppl., 64-2613 (a); Baldwin, 1937 suppl., 15993 (a). *McFarlan v. State*, 149 Ind. 149 (1897); *Board of County Comrs. v. Baker* 215 Ind. 163 19 N. E. (2d) 250 (1939). *Opinions of the Attorney General of Indiana*, 1933, p. 582; 1934, p. 367; 1938, p. 303; 1939, pp. 171, 258, 328.

¹³ Acts 1817-18 (general), ch. 32, sec. 8; ch. 61, sec. 6. Rev. L. 1824, ch. 77, sec. 7. Rev. L. 1831, ch. 22, sec. 9. Rev. Stat. 1838, ch. 82, sec. 3. Rev. Stat. 1843, ch. 55, sec. 19; ch. 57, secs. 4, 9, 10. 1 Rev. Stat. 1852, ch. 58, sec. 11 (repealed by Acts 1937, ch. 157, sec. 3). 1 Rev. Stat. 1852; Burns 13-1012, 13-1013; Baldwin 13454, 13455. Acts 1935; Burns, 1939 suppl., 49-1323; Baldwin, 1935 suppl., 13455-1. *Opinions of the Attorney General of Indiana*, 1934, p. 107.

For sufficient legal grounds the sheriff may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person.¹⁴ If the sheriff is convicted of a felony, or of permitting the lynching of any prisoner in his custody, the judgment of conviction must declare his office vacant.¹⁵

Any vacancy in the office of sheriff is filled through appointment by the board of commissioners. The coroner performs the duties of sheriff until a new appointment is made. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹⁶

The sheriff may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes their salaries, which must be not less than \$75 nor more than \$200 per month. The sheriff may require each deputy to give bond. Each deputy must take the oath required of the sheriff, may perform all the official duties of the sheriff, and is subject to the same regulations and penalties. The sheriff may remove such deputies and assistants at any time, and is responsible for their official acts.¹⁷

¹⁴ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1824, ch. 22, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹⁵ Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁶ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, secs. 7, 9. Acts 1817-18 (general), ch. 19, secs. 7, 9. Acts 1820-21, ch. 19, sec. 1. Acts 1822-23, ch. 13, sec. 3. Rev. L. 1824, ch. 100, secs. 7-9, 11. Rev. L. 1831, ch. 97, secs. 6, 7, 9. Rev. Stat. 1838, ch. 99 (first act), secs. 7, 9, p. 565. Rev. Stat. 1843, ch. 4, secs. 140, 155, 162, 163; ch. 38, sec. 83. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437. *Akers v. State ex rel. Kent*, 8 Ind. 484 (1856); *State ex rel. Culbert v. Linkhauer*, 142 Ind. 94, 41 N. E. 325 (1895). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁷ Acts 1818-19, ch. 17, sec. 3. Rev. L. 1824, ch. 100, sec. 10. Rev. L. 1831, ch. 97, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10, p. 565. Rev. Stat. 1843, ch. 38, sec. 79. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-503; Baldwin 13109, 13110. Acts 1921; Burns 49-504; Baldwin 13111. Acts 1933, 1935, 1937; Burns, 1939 suppl., 49-1002; Baldwin, 1937 suppl., 7532. 2 Rev. Stat. 1852; Burns 49-2804; Baldwin 5496. *Boaz v. Tate*, 43 Ind. 60 (1873). *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

FUNCTIONS AND RECORDS

The sheriff is a conservator of the peace within the county.¹⁸ He is required to arrest without process all persons who within his view commit any criminal offense under the state laws, and detain them in custody during investigation of the cause of the arrest;¹⁹ suppress all breaches of the peace, having authority to call to his aid the power of the county;²⁰ pursue and commit to the county jail all felons;²¹ maintain the jail and take care of the prisoners confined therein (persons held for investigation, detained witnesses, defendants awaiting trial, insane persons, and convicts);²² execute all process, orders, and county warrants directed to him by legal authority,²³ and make returns

¹⁸ Acts 1817-18 (general), ch. 4, sec. 2; ch. 20, sec. 1; ch. 57, sec. 9; ch. 62, sec. 4. Rev. L. 1831, ch. 21, sec. 10. Rev. Stat. 1838, ch. 22, sec. 10. Rev. Stat. 1843, ch. 13, sec. 72. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

¹⁹ Acts 1817-18 (general), ch. 11, sec. 11; ch. 20, sec. 1; ch. 57, sec. 9. Acts 1820-21, ch. 13, sec. 2. Rev. L. 1824, ch. 100, sec. 10. Acts 1829-30, ch. 46, sec. 16. Rev. L. 1831, ch. 97, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73; ch. 40, secs. 43-47. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁰ Acts 1816-17, ch. 10, sec. 15; ch. 32, sec. 9. Acts 1817-18 (general), ch. 4, sec. 2; ch. 20, sec. 1. Rev. L. 1824, ch. 100, secs. 10, 14. Acts 1829-30, ch. 46, sec. 16. Rev. L. 1831, ch. 97, secs. 10, 14. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, secs. 73, 80. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²¹ Acts 1817-18 (general), ch. 20, sec. 1. Rev. L. 1824, ch. 100, sec. 10. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73. 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²² Acts 1816-17, ch. 2, sec. 7. Acts 1817-18 (general), ch. 4, sec. 18; ch. 20, sec. 1; ch. 32, sec. 8. Acts 1819-20, ch. 72, sec. 11. Acts 1822-23, ch. 89. Rev. L. 1824, ch. 46, sec. 3; ch. 77, secs. 2, 4, 7; ch. 100, sec. 10. Rev. L. 1831, ch. 42, sec. 3; ch. 75, sec. 7; ch. 97, sec. 10. Rev. Stat. 1838, ch. 73, sec. 3; ch. 82; ch. 83; ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73; ch. 57, sec. 3. 1 Rev. Stat. 1852; Burns 13-1004, 13-1011; Baldwin 13453, 13465.

²³ Acts 1816-17, ch. 2, sec. 7. Acts 1817-18 (general), ch. 2, sec. 7; ch. 3, secs. 10, 35; ch. 5, sec. 39; ch. 11, sec. 11; ch. 20, sec. 1; ch. 27, secs. 2, 4; ch. 42, sec. 5; ch. 48, secs. 3, 4; ch. 62, secs. 2-4; ch. 63, sec. 2. Rev. L. 1824, ch. 1, sec. 6; ch. 5, sec. 10; ch. 24, sec. 6. ch. 34, sec. 12; ch. 56, secs. 3, 5; ch. 73, secs. 2, 22, 27; ch. 74, secs. 10, 41; ch. 86, secs. 5, 29, 42; ch. 100, sec. 10; ch. 117, secs. 1-3. Rev. L. 1831, ch. 1, secs. 1, 2; ch. 17, sec. 2; ch. 20, sec. 23; ch. 24, sec. 6; ch. 26, sec. 38; ch. 36, sec. 17; ch. 42, sec. 1; ch. 43, secs. 3, 8; ch. 49, sec. 2; ch. 53, sec. 2; ch. 73 (misnumbered 78), sec. 10; ch. 81, sec. 4; ch. 97, sec. 10; ch. 103, sec. 1; ch. 108, secs. 2-4. Rev. Stat. 1838, ch. 21, sec. 23; ch. 23 (first act), sec. 5; ch. 30, sec. 6; ch. 43, sec. 2; ch. 46, sec. 3; ch. 49, secs. 1, 2; ch. 57 (first act), sec. 2; ch. 81 (first act), secs. 10, 51; ch. 81 (sixth act), sec. 1, p. 463; ch. 99 (first act), secs. 10, 12. Rev. Stat. 1843, ch. 4, sec. 121; ch. 12, sec. 81; ch. 38, secs. 73, 76, 88; ch. 45, secs. 160-162, 170; ch. 46, sec. 7, 167-171; ch. 48, secs. 6, 9, 32, 100, 102; ch. 50, secs. 8, 14;

thereon;²⁴ and to preserve and maintain order in the circuit court and superior court (also formerly in the probate court, court of common pleas, and criminal court).²⁵

The sheriff makes arrests on warrants issued on indictments and affidavits, and detains the arrested persons in jail.²⁶

ch. 54, secs. 70, 93. 2 Rev. Stat. 1852, pt. 3, ch. 1, secs. 132, 134, p. 379; pt. 1, ch. 9, sec. 2, p. 24. Acts 1881 (Spec. Sess.); Burns 2-802 *et seq.*, 3-522, 3-1910 to 3-1912, 3-2705; Baldwin 83 *et seq.*, 791, 1026 to 1029, 1202. Acts 1859; Burns 4-3308; Baldwin 1279. Acts 1907; Burns 9-821; Baldwin 2117. Acts 1905; Burns 10-3707; Baldwin 2654. 2 Rev. Stat. 1852; Burns 49-2803; Baldwin 5493.

²⁴ Acts 1816-17, ch. 4, secs. 6, 31. Acts 1817-18 (general), ch. 3, secs. 4, 5, 10; ch. 10, sec. 14; ch. 22, sec. 11; ch. 40, secs. 6, 7. Acts 1820-21, ch. 1, sec. 3. Acts 1821-22, ch. 64, sec. 2. Rev. L. 1824, ch. 40, sec. 22; ch. 45, sec. 14; ch. 73, sec. 4; ch. 74, sec. 8; ch. 99, sec. 2. Rev. L. 1831, ch. 36, secs. 17, 28; ch. 72, sec. 4; ch. 73 (misnumbered 78), secs. 8, 51. Rev. Stat. 1838, ch. 6, sec. 6; ch. 80, sec. 4; ch. 81, sec. 8; ch. 99 (first act), sec. 13; ch. 112, sec. 1. Rev. Stat. 1843, ch. 40, secs. 26-29, 32, 457, 469; ch. 41, sec. 14; ch. 48, secs. 10, 73; ch. 54, secs. 19, 70. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 2, p. 24; pt. 2, ch. 1, secs. 109, 415, pp. 52, 131 (both repealed by Acts 1863, ch. 5, sec. 5); pt. 3, ch. 1, sec. 139, p. 380 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323); pt. 3, ch. 4, sec. 6, p. 387. Acts 1881 (Spec. Sess.); Burns 3-1913, 3-1914; Baldwin 1029, 1030. Acts 1905; Burns 9-1034; Baldwin 2179.

²⁵ Circuit court. Acts 1816-17, ch. 1, secs. 6, 9, 10; ch. 5, sec. 51. Acts 1817-18 (general), ch. 20, sec. 1. Acts 1821-22, ch. 64, sec. 4. Rev. L. 1824, ch. 100, sec. 10. Acts 1817-18 (general), ch. 20, sec. 1. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 73. 2 Rev. Stat. 1852, pt. 1, ch. 6, sec. 4, p. 11.

Superior court. Acts 1875, ch. 39, secs. 3, 4 (local law).

Probate court (1829 to 1853). Acts 1828-29, ch. 26, sec. 3. Rev. L. 1831, ch. 25, secs. 7, 48. Rev. Stat. 1838, ch. 24, secs. 7, 10. Rev. Stat. 1843, ch. 39, secs. 12, 17, 42, 45. Court abolished. 1 Rev. Stat. 1852, ch. 92, sec. 1. 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 43, p. 23.

Court of common pleas (1848 to 1852). Acts 1847-48 (general), ch. 34, sec. 9 (local law). Court abolished. Acts 1851-52, ch. 32, secs. 1, 2 (local law).

Court of common pleas (1853 to 1873). 2 Rev. Stat. 1852, pt. 1, ch. 8, sec. 25, p. 20. Court abolished. Acts 1873; Burns 4-328; Baldwin 1417.

Criminal court (1867 to 1875). Acts 1867, ch. 26, sec. 1 (local law). Court abolished. Acts 1875, ch. 39, sec. 25 (local law).

²⁶ Acts 1816-17, ch. 2, sec. 7; ch. 24, sec. 3; ch. 32, sec. 9. Acts 1817-18 (general), ch. 2, sec. 7; ch. 4, sec. 2; ch. 20, sec. 1; ch. 27, sec. 2; ch. 36, sec. 1; ch. 62, sec. 2; ch. 78, sec. 3. Acts 1818-19, ch. 7, sec. 2. Acts 1819-20, ch. 25. Acts 1820-21, ch. 13, sec. 2. Acts 1821-22, ch. 64, secs. 2, 3. Rev. L. 1824, ch. 40, secs. 14, 17; ch. 46, secs. 1, 3; ch. 47, secs. 1-3; ch. 50, sec. 1; ch. 75, secs. 3, 4; ch. 77, sec. 4; ch. 99, sec. 2; ch. 114, secs. 2, 4. Rev. Stat. 1838, ch. 27, sec. 14; ch. 28, sec. 4; ch. 45, secs. 1-4; ch. 48, sec. 2; ch. 51, secs. 1, 7. Rev. Stat. 1843, ch. 20, secs. 1, 22; ch. 45, sec. 185; ch. 54, secs. 18, 20. 2 Rev. Stat. 1852, pt. 2, ch. 1, secs. 106, 107, p. 51. Acts 1905, 1937; Burns, 1940 suppl., 9-1001; Baldwin, 1937 suppl., 2134. 1 Rev. Stat. 1852, 1865 (Spec. Sess.); Burns 13-1009; Baldwin 13463.

or releases them on bail as provided by law;²⁷ formerly set trial dates for prisoners unable to make bail;²⁸ formerly adjourned court when the judge was absent;²⁹ serves summonses in cases of misdemeanors;³⁰ deputizes bystanders to aid him in protecting persons from being lynched;³¹ calls the petit jury for civil and criminal cases as prescribed by law or directed by the court;³² performs the duties of bailiff of the circuit court and superior court if no bailiff is appointed by the judge of those courts;³³ transports persons committed to the charitable, correctional, and penal institutions operated by the state;³⁴ sells certain estrays³⁵ and driftage;³⁶ seizes and sells property as directed by any cir-

Proceedings by insolvent debtor to obtain release on assignment for benefit of creditors.

Acts 1817-18 (general), ch. 61, secs. 1-3, 5, 6. Acts 1819-20, ch. 72, secs. 10, 11. Acts 1820-21, ch. 5, sec. 1. Acts 1822-23, ch. 49, sec. 3. Rev. L. 1824, ch. 54, secs. 1-4, 10, 11, 14. Acts 1828-29, ch. 32, secs. 1, 2, Rev. L. 1831, ch. 27, sec. 14.

²⁷ Acts 1816-17, ch. 4, secs. 7, 10. Acts 1817-18 (general), ch. 2, sec. 7; ch. 3, secs. 6, 9. Acts 1821-22, ch. 23, sec. 8. Acts 1822-23, ch. 23. Rev. L. 1824, ch. 23, sec. 3; ch. 29, secs. 70, 82; ch. 40, sec. 14; ch. 77, sec. 2; ch. 100, sec. 10. Rev. L. 1831, ch. 26, sec. 90; ch. 97, sec. 10. Rev. Stat. 1838, ch. 26, sec. 90; ch. 51, sec. 8. Rev. Stat. 1843, ch. 54, sec. 21; ch. 57, secs. 22, 23. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 108, p. 51.

²⁸ Acts 1825, ch. 17, secs. 1, 3, 6, 7.

²⁹ Acts 1816-17, ch. 1, sec. 10. Acts 1817-18 (general), ch. 2, sec. 10. Rev. L. 1824, ch. 24, sec. 8. Rev. L. 1831, ch. 22, sec. 7. Rev. Stat. 1838, ch. 23 (first act), sec. 7. Rev. Stat. 1843, ch. 38, sec. 34.

³⁰ Acts 1905, 1937; Burns, 1940 suppl., 9-1001; Baldwin, 1937 suppl., 2134. Acts 1939; Burns, 1940 suppl., 47-2307, 47-2308; Baldwin, 1939 suppl., 11189-174, 11189-175.

³¹ Acts 1817-18 (general), ch. 48, sec. 3. Rev. L. 1824, ch. 100, sec. 14. Acts 1905; Burns 10-3309, 10-3310; Baldwin 2530, 2531. State *ex rel.* Maxwell v. Dudley, 161 Ind. 431, 68 N. E. 899 (1903).

³² Acts 1881 (Spec. Sess.); Burns 2-2002; Baldwin 327. Acts 1905; Burns 9-1501; Baldwin 2246.

³³ Acts 1921, 1935; Burns, 1939 suppl., 4-3107; Baldwin, 1935 suppl., 1256.

³⁴ Rev. L. 1824, ch. 29, secs. 83, 84. Rev. L. 1831, ch. 26, secs. 86, 87; ch. 41, secs. 25, 26. Rev. Stat. 1838, ch. 26, secs. 86, 87. Rev. Stat. 1843, ch. 54, sec. 74. 2 Rev. Stat. 1852, pt. 3, ch. 1, secs. 136-7, p. 379. Acts 1905; Burns 9-2232, 22-2013; Baldwin 2339, 4206. Acts 1927; Burns 22-1213; Baldwin 4305. Acts 1911; Burns 22-1716; Baldwin 4230. Acts 1919; Burns 22-1809; Baldwin 4264.

³⁵ Rev. L. 1831, ch. 35, sec. 8. Rev. Stat. 1838, ch. 37, sec. 8. Rev. Stat. 1843, ch. 21, sec. 13. 1 Rev. Stat. 1852; Burns 51-311; Baldwin 13238.

³⁶ Rev. L. 1831, ch. 35, sec. 9. Rev. Stat. 1838, ch. 37, sec. 10. Acts 1901, 1913; Burns 51-332; Baldwin 13259.

cuit court or superior court,³⁷ takes security bonds in connection with such seizures and sales,³⁸ and executes conveyances to the purchasers;³⁹ collects fee-bills issued by authorized public officials;⁴⁰ executes the process of the Supreme Court of Indiana,⁴¹ the Appellate Court of Indiana,⁴² the state board of tax commissioners,⁴³ the state department of treasury (collection of gross income tax),⁴⁴ the state unemploy-

³⁷ Acts 1816-17, ch. 5, sec. 51. Acts 1817-18 (general), ch. 3, sec. 4, ch. 4, sec. 18; ch. 6, sec. 3; ch. 7, secs. 2, 8, 22; ch. 10, secs. 10, 14; ch. 11, secs. 1, 4; ch. 22, secs. 2-6, 8; ch. 24, sec. 2; ch. 40, secs. 6, 7; ch. 61, secs. 2, 3; ch. 66, sec. 1. Acts 1819-20, ch. 56, secs. 1-3. Acts 1821-22, ch. 4, secs. 4-6; ch. 14, sec. 1; ch. 79, sec. 2. Acts 1822-23, ch. 48, sec. 10. Rev. L. 1824, ch. 5, secs. 2, 8, 10, 13, 22, 26, 28; ch. 6, sec. 4; ch. 34, secs. 2, 5, 11; ch. 39, sec. 6; ch. 40, secs. 3-5, 7-10, 12, 14, 17-19; ch. 45, sec. 10; ch. 85, sec. 6; ch. 99, sec. 2; ch. 114, sec. 3. Acts 1825, ch. 23, sec. 1. Acts 1829-30, ch. 35, sec. 1. Rev. L. 1831, ch. 6, secs. 6, 7; ch. 7, sec. 5; ch. 36, secs. 2, 6, 11, 25, 26; ch. 79, sec. 5; ch. 80, sec. 6. Rev. Stat. 1838, ch. 6, secs. 6, 7, 11, 18; ch. 7 (first act), sec. 5; ch. 44, secs. 25, 26; ch. 88, secs. 4-6. Rev. Stat. 1843, ch. 40, secs. 371-384, 390-392, 407, 413-423; ch. 41, secs. 12-14, 30, 50; ch. 42, sec. 17; ch. 40, sec. 167. 2 Rev. Stat. 1852, pt. 2, ch. 1, secs. 445, 446, 457, 458, pp. 137, 139. Acts 1881 (Spec. Sess.); Burns 2-3601, 3-1819; Baldwin 574, 1014.

³⁸ Acts 1816-17, ch. 6, sec. 1. Acts 1817-18 (general), ch. 3, secs. 6, 9; ch. 4, sec. 18; ch. 11, sec. 10; ch. 42, secs. 24, 26. Acts 1821-22, ch. 4, secs. 4, 5; ch. 23, sec. 8; ch. 43, sec. 4. Acts 1822-23, ch. 46, sec. 4; ch. 48, sec. 10. Rev. L. 1824, ch. 34, secs. 11, 12; ch. 40, sec. 100; ch. 85, sec. 5. Acts 1825, ch. 23, secs. 4, 5. Acts 1829-30, ch. 35, sec. 1. Rev. L. 1831, ch. 15, sec. 7; ch. 80, sec. 5. Rev. Stat. 1838, ch. 14 (first act), sec. 5; ch. 26, sec. 91; ch. 39 (first act); ch. 88, sec. 5. Rev. Stat. 1843, ch. 40, secs. 385-387; ch. 41, sec. 34.

³⁹ Acts 1820-21, ch. 19, sec. 6. Rev. Stat. 1843, ch. 40, secs. 424-426. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 472, p. 143. Acts 1881 (Spec. Sess.); Burns 2-4101; Baldwin 619. Acts 1831; Burns 3-1806; Baldwin 1008.

⁴⁰ Acts 1817-18 (general), ch. 40, secs. 5-7, 9; ch. 66, sec. 1. Acts 1822-23, ch. 26, secs. 1-3. Rev. L. 1824, ch. 24, sec. 13; ch. 41, secs. 7, 9; ch. 72, sec. 23; ch. 100, sec. 11. Acts 1825, ch. 24, secs. 1-3. Rev. Stat. 1838, ch. 40 (first act), secs. 8, 15, 16, 19; ch. 99 (first act), sec. 11. Acts 1881 (Spec. Sess.); Burns 2-3303, 2-3318; Baldwin 525, 528. Acts 1875 (Spec. Sess.); Burns 49-1425, 49-1426; Baldwin 13119, 13120. Acts 1855; Burns 49-1427, 49-1428; Baldwin 13122, 13123.

⁴¹ Acts 1816-17, ch. 1, secs. 6, 9, 10. Acts 1817-18 (general), ch. 1, secs. 6, 9, 10. Acts 1822-23, ch. 91, secs. 1, 3. Rev. L. 1824, ch. 1, sec. 6; ch. 25, secs. 6, 12; ch. 100, sec. 13. Rev. L. 1831, ch. 24, sec. 6; ch. 97, sec. 13. Rev. Stat. 1838, ch. 25, secs. 11, 12, 19. Rev. Stat. 1843, ch. 37, secs. 126-133, 137. Acts 1891; Burns 4-228, 4-230; Baldwin 1375, 1378. 2 Rev. Stat. 1852; Burns 49-2203; Baldwin 1339. 2 Rev. Stat. 1852, Acts 1889; Burns 49-2204; Baldwin 1340.

⁴² Acts 1891; Burns 4-228; Baldwin 1375.

⁴³ Acts 1919; Burns 64-1303; Baldwin 10705.

⁴⁴ Acts 1933, 1937; Burns, 1939 suppl., 64-2613 (a); Baldwin, 1937 suppl., 15993 (a). *Opinions of the Attorney General of Indiana, 1938*, p. 303; *1939*, pp. 171, 258.

ment compensation board (collection of assessments against employers),⁴⁵ the state industrial board,⁴⁶ the county board of election commissioners, and the county board of canvassers,⁴⁷ when officially directed to do so; attends sessions of the board of commissioners,⁴⁸ county council,⁴⁹ and board of review,⁵⁰ and executes the orders of those boards; issues licenses for the retail sale of pistols;⁵¹ makes investigations of poultry dealers, and receives weekly reports from them;⁵² kills unlicensed dogs after June 15 each year;⁵³ assists the state board of health in the administration of laws concerning contagious diseases;⁵⁴ and gives public notice of the holding of elections.⁵⁵ In the early days of the county he performed various duties concerning elections⁵⁶ and

⁴⁵ Acts 1936 (Spec. Sess.), 1939; Burns, 1939 suppl., 52-1514 (b); Baldwin, 1939 suppl., 10158-61.

⁴⁶ Acts 1937; Burns, 1939 suppl., 40-2217(a); Baldwin, 1937 suppl., 16515(a).

⁴⁷ Acts 1905; Burns 29-1408; Baldwin 7384.

⁴⁸ Acts 1816-17, ch. 15, sec. 6. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6; ch. 86, secs. 5, 29, 42. Acts 1826-27, ch. 13, sec. 6. Acts 1827-28, ch. 77, sec. 19. Acts 1828-29, ch. 16, sec. 6; ch. 17, sec. 6. Rev. L. 1831, ch. 20, sec. 6; ch. 81, sec. 3; ch. 82, sec. 48. Rev. Stat. 1843, ch. 7, secs. 5, 25. 1 Rev. Stat. 1852; Burns 26-611; Baldwin 5226.

⁴⁹ Acts 1899; Burns 26-510; Baldwin 5374.

⁵⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁵¹ Acts 1935, 1937; Burns, 1939 suppl., 10-4742; Baldwin, 1937 suppl., 2569-9.

Forms for these licenses are prescribed by the superintendent of the state police. *Ibid.*

⁵² Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803(b); Baldwin 10487. Acts 1903; Burns 35-411; Baldwin 8541.

⁵³ Acts 1937; Burns, 1939 suppl., 16-330; Baldwin, 1937 suppl., 3811-14.

⁵⁴ Acts 1917; Burns 35-504; Baldwin 8546.

⁵⁵ Acts 1816-17, ch. 9, sec. 15; ch. 12, sec. 5. Acts 1817-18 (special), ch. 3, secs. 1, 3. Acts 1817-18 (general), ch. 17, sec. 1; ch. 49, sec. 5. Rev. L. 1824, ch. 35, sec. 15; ch. 36, sec. 1; ch. 37, sec. 1; ch. 59, sec. 3. Acts 1827-28, ch. 80, sec. 1, 5. Acts 1829-30, ch. 47. Rev. L. 1831, ch. 59, sec. 4. Rev. Stat. 1838, ch. 33, sec. 11; ch. 34, secs. 1, 3. Rev. Stat. 1843, ch. 5, secs. 8, 10, 12, 76, 135; ch. 18, secs. 21-24; ch. 25, sec. 73. 1 Rev. Stat. 1852, ch. 31, sec. 2; ch. 119, sec. 2. Acts 1881 (Spec. Sess.); Burns 29-702, 29-1703; Baldwin 7082, 7248. *Demaree v. Johnsou*, 150 Ind. 419, 49 N. E. 1062 (1897).

⁵⁶ Acts 1816-17, ch. 9, secs. 1, 16, 22; ch. 12, sec. 5; ch. 14, secs. 2, 6, 8. Acts 1817-18 (special), ch. 3, secs. 1-3. Acts 1817-18 (general), ch. 15, secs. 1, 15, 16, 19, 22; ch. 17, secs. 1, 8; ch. 49, sec. 5. Acts 1822-23, ch. 13, secs. 1, 2, Rev. L. 1824, ch. 35, secs. 16, 22; ch. 36, sec. 1; ch. 37, sec. 2; ch. 59, sec. 3. Acts 1826-27, ch. 13, sec. 20. Rev. L. 1831, ch. 23, sec. 2; ch. 32, secs. 1, 16, 19, 22; ch. 57, secs. 1, 3. Rev. Stat. 1838, ch. 32, secs. 1, 28, 34; ch. 33, sec. 2; ch. 61, secs. 1-3. Rev. Stat. 1843, ch. 5, secs. 57, 58, 90, 91, 101, 110, 114, 115, 136. 1 Rev. Stat. 1852, ch. 32, sec. 3; ch. 34, secs. 7, 8. Acts 1889, ch. 87, sec. 15. Acts 1891, ch. 94, sec. 2.

the distribution of journals and session laws of the legislature.⁵⁷ Formerly he was required to bring suit for statutory penalties against persons passing bank notes issued by banks located outside the state.⁵⁸

The sheriff keeps in his office, open to public inspection, written information (furnished by the state department of public safety) as to motor vehicle operators' and chauffeurs' licenses issued, denied, suspended, revoked, and existing in the state.⁵⁹ Information concerning stolen motor vehicles is reported by the sheriff to the state motor vehicle commissioner.⁶⁰ The sheriff receives reports of deaths resulting from the operation of motor vehicles in the county (except in cities and towns), makes immediate investigations concerning such deaths, and reports the facts to the state department of public safety within 24 hours thereafter.⁶¹ All arrests made by the sheriff for the violation of laws concerning the operation of motor vehicles are reported by him to the state motor vehicle commissioner.⁶²

For public displays of fireworks in the county (except in cities and towns), the sheriff approves the location, operator, permit, and indemnity bond, in accordance with regulations prescribed by the state fire marshal.⁶³ From 1911 until 1935 the sheriff assisted local health authorities in quarantining, muzzling, and killing dogs in accordance with the laws concerning hydrophobia.⁶⁴

The sheriff charges the fees provided by law for the services he performs and pays the same over to the treasurer.⁶⁵

⁵⁷ Acts 1825, ch. 34, secs. 6, 7. Rev. Stat. 1843, ch. 6, secs. 73, 75.

⁵⁸ Rev. Stat. 1838, ch. 75, sec. 2.

⁵⁹ Acts 1927, ch. 33, sec. 3. Acts 1937, 1939; Burns, 1939 suppl., 47-442; Baldwin, 1939 suppl., 11317-11.

⁶⁰ Acts 1921; Burns 47-314; Baldwin 11142.

⁶¹ Acts 1933, ch. 189, sec. 2. Acts 1937, ch. 129, sec. 1. Acts 1939; Burns, 1939 suppl., 47-1915, 47-1916; Baldwin, 1939 suppl., 11189-54, 11189-55.

⁶² Acts 1937; Burns, 1939 suppl., 47-448; Baldwin, 1937 suppl., 11317-17.

⁶³ Acts 1933; Burns, 1939 suppl., 20-1102, 20-1103; Baldwin, 1939 suppl., 2542-2, 2542-3. Information obtained from Clem Smith, state fire marshal, on April 15, 1940, by W. Davis Hamilton.

⁶⁴ Acts 1911, ch. 98, secs. 5, 6 (repealed by Acts 1935, ch. 271, sec. 1).

⁶⁵ Acts 1817-18 (general), ch. 40, sec. 9. Rev. L. 1824, ch. 24, sec. 13; ch. 41, secs. 2, 9; ch. 72, sec. 23. Rev. L. 1831, ch. 35, sec. 8. Rev. Stat. 1843, ch. 5, secs. 120, 121; ch. 21, sec. 13; ch. 38, sec. 75. 1 Rev. Stat. 1852, ch. 37, secs. 1, 6. Acts 1871, ch. 17, sec. 20. Acts 1933; Burns 49-1005; Baldwin 7535. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1932 (Spec. Sess.); Burns 49-1312, 49-1315, 49-1316; Baldwin 7571, 7574. Acts 1919, 1921; Burns 49-1318; Baldwin 13588-1. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

Fines imposed by the circuit court are collected by him and paid over to the county treasurer.⁶⁶

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.⁶⁷

Whenever the sheriff is unable to attend to his duties, the coroner performs them;⁶⁸ and if both the sheriff and coroner are unable to act, it is then the duty of the judge of the circuit court to appoint an elisor who discharges the sheriff's duties until the disability of the sheriff or coroner is removed.⁶⁹

The sheriff keeps a record of the service of process⁷⁰ and a record of executions. He makes an annual written report, under oath, to the circuit court showing all executions and other process in his hands, what levies he has made, the amount of money collected on each execution, and when service thereof was made, which report is to be entered in the order book of the circuit court.⁷¹ He keeps a jail record,⁷² a poultry dealers' record,⁷³ and fee and

⁶⁶ Acts 1816-17, ch. 17, sec. 6; ch. 27, sec. 1. Acts 1817-18 (general), ch. 44, sec. 6; ch. 72, secs. 2, 3; ch. 79, sec. 1. Acts 1817-18 (special), ch. 4, sec. 1. Acts 1820-21, ch. 19, sec. 1. Acts 1822-23, ch. 26, secs. 2, 3. Rev. L. 1824, ch. 22, sec. 8; ch. 29, sec. 80; ch. 57, sec. 42; ch. 100, sec. 11. Acts 1825, ch. 69, sec. 1, 2. Acts 1871, ch. 17, sec. 20. Acts 1905, 1927; Burns 9-2226 to 9-2228; Baldwin 2332, 2334, 2335.

Fines imposed by justices of the peace. Rev. L. 1824, ch. 57, sec. 42.

⁶⁷ Acts 1816-17, ch. 2, sec. 10. 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

⁶⁸ Acts 1816-17, ch. 13, sec. 9. Acts 1817-18 (general), ch. 19, sec. 9. Rev. L. 1824, ch. 100, sec. 9. Rev. L. 1831, ch. 97, sec. 9. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901, 49-2902; Baldwin 5436, 5437.

⁶⁹ Acts 1825-26, ch. 42, sec. 20. Rev. Stat. 1838, ch. 8 (second act), sec. 11, p. 460. 2 Rev. Stat. 1852; Burns 4-322; Baldwin 1411.

⁷⁰ Acts 1816-17, ch. 4, sec. 31. Acts 1817-18 (general), ch. 32, sec. 6.

Record required by the state board of accounts. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

⁷¹ Rev. L. 1824, ch. 57, sec. 42. Acts 1825, ch. 69, secs. 1, 2. Acts 1827-28, ch. 88, sec. 3. Rev. Stat. 1843, ch. 57, secs. 14-16. Acts 1905; Burns 9-1034; Baldwin 2179. 1 Rev. Stat. 1852; Burns 13-1015, 13-1016; Baldwin 13457, 13458. 2 Rev. Stat. 1852; Burns 49-2807; Baldwin 5502.

⁷² Acts 1817-18 (general), ch. 32, secs. 6, 8. Rev. L. 1831, ch. 75, sec. 5. Rev. L. 1838, ch. 83, sec. 5. Acts 1909; Burns 13-1007; Baldwin 13459.

⁷³ Acts 1917, 1929, 1932 (Spec. Sess.); Burns 42-803; Baldwin 10487.

cash records.⁷⁴ Quarterly and at the end of his term of office he reports to the auditor the amount of all fees collected during the time intervening since his last preceding report.⁷⁵

SERVICE ON WRITS

261. SHERIFF'S DOCKET, 1872-79. 8 vols. (Q, T, U, W, 1, 4, 5, 9).

Record of services on writs issued in civil, criminal, and probate causes, showing dates of writ, service, and return; names of plaintiff, defendant, and witnesses; cause number; kind of writ; and amounts of costs and fees. Arr. chron. by dates of services. Indexed alph. by names of plaintiffs and defendants. Hdw. 575 pp. 18 x 12 x 3½. Sher. off.

EXECUTIONS ON JUDGEMENTS

(See also entries 138-149, 197, 237-239, 251, 257)

262. SHERIFF'S SALE OF REAL ESTATE, 1879-. 3 vols. (1-3).

Record of sheriff's sales of real property to satisfy judgments, showing dates of publication and sale, names of property owner and purchaser, location and description of property, and amounts of sale and judgment. Arr. chron. by dates of sales. Indexed alph. by names of owners and purchasers. Hdw. 345 pp. 17 x 14 x 2. Sher. off.

263. REGISTER OF EXECUTIONS, 1891-. 9 vols. (1-5; 1 vol. unlabeled; 2-4).

Record of services on writs for execution of judgments, showing dates of writ, service, and return; names of plaintiff, defendant, and attorneys; cause number; kind of writ; amounts of judgment, interest, and costs; sheriff's return; and volume and page reference to Cash Book, entry 269. Arr. chron. by dates of writ. Indexed alph. by names of plaintiffs and defendants. Hdw. 400 pp. 18 x 12 x 2½. Sher. off.

264. REGISTER OF FOREIGN EXECUTIONS, 1897-. 2 vols. (1, 2).

Record of service on writs issued by courts of other counties, showing date, number, and kind of writ; dates of service and return; names of county, plaintiff, defendant, and witnesses; amount of costs; cause number; and sheriff's return. Arr. chron. by dates of writs. Indexed alph. by names of counties. 210 pp. 18 x 12 x 2½. Sher. off.

⁷⁴ Acts 1871, ch. 17, secs. 17, 20. Acts 1891, ch. 194, secs. 124, 125. Acts 1895; Burns 49-1401; Baldwin 7576. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁷⁵ Acts 1871, ch. 17, sec. 20. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

JAIL RECORDS

265. JAIL RECORD, CITY, 1904-. 4 vols. Title varies:
Daily Reports of Arrests, 1914-36, 1 vol.

Register of persons committed to city jail, showing dates and time of commitment and discharge; name, age, sex, color, residence, and birthplace of prisoner; name of court; nature of charge; amounts of bail, board, cost, and fees; and number of meals served. Arr. chron. by dates of commitments. No index. Hdw. 478 pp. 17 x 14 x 2½. Sher. off.

266. JAIL REGISTER, 1916-. 2 vols. (1 vol. unlabeled; 2). Register of persons committed to county jail, showing date and time committed and released; name, age, sex, color, residence, and birthplace of prisoner; name of judge; nature of charge; amount of bail; and number and cost of meals served. Arr. chron. by dates of commitments. No index. Hdw. 478 pp. 17 x 14 x 2½. Sher. off.

FEE AND CASH RECORDS

267. SHERIFF'S FEE BOOK, 1877-81, 1883-87, 1891-94, 1915-. 7 vols. (3 vols. unlabeled; 5-8). Title varies:
Sheriff's Fee Register, 1877-81, 1 vol.; Sheriff's Fee Docket, 1883-87, 1 vol.

Record of fees collected for services on writs, showing date and nature of service; cause number; names of plaintiff, defendant, and witnesses; and amounts of fees and costs. Arr. chron. by dates of services. Indexed alph. by names of plaintiffs and defendants. Hdw. 600 pp. 18 x 12 x 3. 6 vols., 1877-81, 1891-94, 1915-, sher. off.; 1 vol., 1883-87, clk. rec. rm.

268. SHERIFF'S FOREIGN FEE DOCKET, 1891-1900, 1914-. 4 vols. (2, 4, 5; 1 vol. unlabeled).

Record of fees assessed for service on writs from foreign counties, showing dates of writ, service, and payment; names of county, plaintiff, and defendant; number and kind of writ; and sheriff's return. Arr. chron. by dates of service. Indexed alph. by names of counties. Hdw. 420 pp. 18 x 12 x 2½. Sher. off.

269. CASH BOOK, 1895-99, 1913-. 2 vols. (2; 1 vol. unlabeled).

Record of receipts and disbursements, showing dates, amounts, and nature of receipt and disbursement; names of payer and payee; and cause and receipt numbers. Arr. chron. by dates

of receipts and disbursements. For index, 1895-99, see entry 270; no index, 1913-. Hdw. 300 pp. 18 x 12 x 3. Sher. off.

270. INDEX TO CASH BOOK, NO.2, 1895-99.

Index to Cash Book, entry 269, showing names of plaintiff and defendant, and volume and page reference to recording. Arr. alph. by names of plaintiffs and defendants. Hdw. 100 pp. 16 x 10 x 1/2. Sher. off.

271. SHERIFF'S RECORD OF MILEAGE, 1929-. 1 vol.

Record of sheriff's mileage, showing date of service; cause number; names of plaintiff, defendant, and person processed; number of miles traveled per trip and per month; and amount of fees. Arr. chron. by dates of services. No index. Hdw. 400 pp. 14 x 9 x 2. Sher. off.

MAPS

272. TIPPECANOE COUNTY, 1930. 2 maps.

Communication and land tenure maps, showing names and locations of civil townships, rivers, creeks, cities, towns, and railroads; telephone and telegraph lines; numbers and boundaries of Congressional townships, ranges, and sections; number of acres per farm; name of farm owner; number and location of rural routes and state highways; and county roads. Published by Stacy Publishing Company, Rockford, Illinois. Black and white. Scale: 2 1/3" to 1 mi. 60 x 48. Sher. off.

273. LAFAYETTE AND WEST LAFAYETTE, 1926. 1 map.

Political and communications map, showing names and locations of streets, railroads, public buildings, parks, original town, additions, and subdivisions; block and lot numbers; and name and location of river. Drawn by Claude M. Draper, Lafayette, Indiana. Blueprint. Scale: 1" to 800'. 24 x 30. Sher. off.

274. WARD AND PRECINCT MAP, not dated. 1 map.

Political and communications map of Lafayette and West Lafayette, showing names and locations of streets, public buildings, railroads, highways, and rivers; locations of voting places; and precinct and ward numbers and boundaries. Blueprint. Scale: 4" to 1 mi. 24 x 30. Sher. off.

275. PRECINCT MAP, not dated. 1 map.

Political map of Tippecanoe County, showing names and boundaries of townships, numbers and boundaries of wards and precincts, and locations of voting places. Blueprint. Scale: 1" to 1 mi. 24 x 30. Sher. off.

XVI. CORONER

LEGAL STATUS

The office of coroner has existed in Tippecanoe County ever since 1826 under the mandatory requirements of the Constitution of 1816 and the Constitution of 1851. The coroner is elected for a 2-year term by the voters of the county, without restrictions on reelection.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ The coroner must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁴ must reside within the county after his election, and must not hold any other lucrative office.⁵ Before May 6, 1853 he could not practice law.⁶ He must post bond in an amount between \$1,000 and \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court.⁷ The coroner must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁸

¹ Const. 1816, art. 4, sec. 25. Const. 1851, art. 6, sec. 2. Acts 1816-17, ch. 13, secs. 5, 6. Acts 1817-18 (general), ch. 15, sec. 13; ch. 19, sec. 5. Rev. L. 1824, ch. 35, sec. 13; ch. 100, secs. 5, 6, 8. Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act). Rev. L. 1831, ch. 97, sec. 5. Rev. L. 1838, ch. 99 (first act.) sec. 5. Rev. Stat. 1843, ch. 4, secs. 2, 10.

Exemption of coroner from arrest. Acts 1817-18 (general), ch. 54, sec. 3. Rev. L. 1824, ch. 78, sec. 3.

² Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Acts 1816-17, ch. 9, sec. 13; ch. 13, sec. 1. Acts 1817-18 (general), ch. 19, sec. 1; ch. 19, sec. 6. Acts 1822-23, ch. 13, sec. 3. Rev. L. 1824, ch. 100, secs. 1, 2, 6. Rev. L. 1831, ch. 97, sec. 1. Rev. Stat. 1838, ch. 99 (first act), sec. 1. Rev. Stat. 1843, ch. 4, sec. 53. 2 Rev. Stat. 1852, pt. 1, ch. 7, sec. 1, p. 13. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1816, art. 4, sec. 25. Const. 1851, art. 15, sec. 3. Acts 1816-17, ch. 13, sec. 5. Rev. Stat. 1838, ch. 4, sec. 10.

⁴ Const. 1851, art. 6, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

⁵ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, sec. 73.

⁶ Rev. L. 1824, ch. 8, sec. 6. Rev. Stat. 1838, ch. 8, sec. 6. Rev. Stat. 1843, ch. 38, sec. 101. 1 Rev. Stat. 1852, ch. 92, sec. 1 (repealing previous laws). Jones v. Cavins, 4 Ind. 505 (1853).

⁷ Acts 1816-17, ch. 13, secs. 2-4, 8. Acts 1817-18 (general), ch. 19, sec. 3. Acts 1821-22, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 69, sec. 4; ch. 100, secs. 4, 8. Acts 1826-27, ch. 49, sec. 2. Rev. L. 1831, ch. 15, sec. 7; ch. 97, sec. 2. Rev. Stat. 1838, ch. 99 (first act), secs. 2, 8. Rev. Stat. 1843, ch. 4, sec. 101; ch. 38, sec. 81. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

⁸ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 19, sec. 4. Rev. L. 1824, ch.

The coroner receives as compensation for himself for impaneling and swearing witnesses and making and returning inquisition for the viewing of each body, \$5 for the first day and \$2.50 for each additional day, plus a mileage allowance of 5 cents for each mile necessarily traveled in performing his duties. When he performs the duties required of the sheriff, the coroner receives the same compensation allowed to the sheriff. The coroner may employ a clerk, at a rate of pay not exceeding \$2 per day, to take down evidence of any inquisition,⁹ and may appoint deputies when needed.¹⁰

For sufficient legal grounds the coroner may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹¹ If the coroner is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of coroner is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor; and he holds office for the unexpired term and until his successor is elected and qualified.¹³

There has been no major change in the office of coroner since the early days of the county, other than the abolition of the coroner's jury in 1879.¹⁴

100, sec. 4. Rev. L. 1831, ch. 97, secs. 4, 8. Rev. Stat. 1838, ch. 99 (first act), secs. 4, 8. Rev. Stat. 1843, ch. 4, sec. 77; ch. 38, sec. 81. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

⁹ Rev. Stat. 1838, ch. 40 (first act), secs. 1, 7, 11. 1 Rev. Stat. 1852, ch. 37, secs. 1, 4. Acts 1871, ch. 17, sec. 13. Acts 1875 (Spec. Sess.); Burns 49-2917; Baldwin, 1935 suppl., 5452.

¹⁰ 1 Rev. Stat. 1852; Burns 49-501, 49-502; Baldwin 13108, 13109.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. L. 1824, ch. 29, sec. 34. Rev. L. 1831, ch. 26, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-833, 49-836; Baldwin 13154 to 13166, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 13, sec. 7. Acts 1817-18 (general), ch. 17, sec. 8; ch. 19, sec. 7. Rev. L. 1824, ch. 100, secs. 7, 8. Rev. L. 1831, ch. 97, secs. 6, 7. Rev. Stat. 1838, ch. 99 (first act), secs. 6, 7. Rev. Stat. 1843, ch. 4, secs. 155, 162, 163; ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁴ Acts 1816-17, ch. 10, sec. 15; ch. 32, sec. 9. Rev. L. 1824, ch. 100, secs. 15, 16, 21. Rev. L. 1831, ch. 97, secs. 15, 16. Rev. Stat. 1838, ch. 99 (1), secs. 1-23; ch. 99 (2), secs. 1-3. Rev. Stat. 1843, ch. 5, sec. 136; ch. 37, sec. 135; ch. 38, secs. 82-84; ch. 56, secs. 1-16. 2 Rev. Stat. 1852,

FUNCTIONS AND RECORDS

The coroner is required to investigate deaths resulting from violence and other unnatural causes and inquire into the cause and manner of death.¹⁵ County and city health officers must notify the coroner when they find any evidence that the death of a person was caused by violence or criminal practice or that a dead human body was buried or otherwise disposed of without a permit, and the coroner must hold an inquest concerning the death of the person mentioned in such report.¹⁶ He holds inquests without a jury,¹⁷ and may subpoena witnesses and employ a physician or surgeon for post-mortem examinations.¹⁸ If the finding of the inquisition determines that the death was caused by felony, the coroner must order the arrest of any person whom he may charge with such felony,¹⁹ and may require witnesses to give recognizances for their appearance at the trial of the accused. The evidence and verdict at the inquest are in writing, and are filed in the office of the clerk of the circuit court, together with all recognizances taken²⁰ and a written report giving a minute description of the deceased and valuables found with the body. If no person authorized to receive these valuables can be found after publication of notice, they are sold and the proceeds of sale are turned over to

Acts 1871, 1879 (Spec. Sess.); 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

¹⁵ Acts 1817-18 (general), ch. 20, sec. 2. Rev. L. 1824, ch. 100, sec. 15. Rev. L. 1831, ch. 97, secs. 15-18. Rev. Stat. 1838, ch. 99 (first act), sec. 15. Rev. Stat. 1843, ch. 56, sec. 1. 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1939 suppl., 49-2904a; Baldwin, 1935 suppl., 5439a.

¹⁶ Acts 1907, 1913; Burns 35-115; Baldwin 8398. *Opinions of the Attorney General of Indiana, 1934*, p. 33.

¹⁷ Acts 1817-18 (general), ch. 20, secs. 2-5. Rev. L. 1824, ch. 100, secs. 15-18. Acts 1879 (Spec. Sess.); Burns 49-2905; Baldwin 5444.

¹⁸ Acts 1817-18 (general), ch. 20, secs. 6, 7. Rev. L. 1824, ch. 100, sec. 20. Rev. L. 1831, ch. 97, sec. 20. Rev. Stat. 1838, ch. 99 (first act), sec. 20. Rev. Stat. 1843, ch. 56, sec. 8. 2 Rev. Stat. 1852; Burns 49-2906; Baldwin 5440.

¹⁹ Acts 1817-18 (general), ch. 20, sec. 9. Rev. L. 1824, ch. 100, sec. 22. Rev. L. 1831, ch. 97, sec. 22. Rev. Stat. 1838, ch. 99 (first act), sec. 22. Rev. Stat. 1843, ch. 56, sec. 15. 2 Rev. Stat. 1852; Burns 49-2914; Baldwin 5448.

²⁰ Acts 1817-18 (general), ch. 20, sec. 8. Rev. L. 1824, ch. 100, sec. 21. Rev. L. 1831, ch. 97, sec. 18. Rev. Stat. 1838, ch. 99 (first act), sec. 21. Rev. Stat. 1843, ch. 56, sec. 9. 2 Rev. Stat. 1852; Burns 49-2907; Baldwin 5441. 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.); Burns 49-2908; Baldwin 5442.

the Tippecanoe county treasurer for the common school fund.²¹

The coroner acts in a nonjudicial capacity, and his findings are not binding upon any person.²² When the coroner is absent from the county or unable to attend an inquest, any justice of the peace of the county may hold the inquest.²³ Each death coming under the supervision of the coroner must be reported, on a blank form prescribed by the state board of health, within 3 days after holding the inquest, to the county or city health officer having jurisdiction.²⁴ The coroner makes a written report each month, to the state department of public safety, showing deaths of persons in his jurisdiction, during the preceding month, resulting from the operation of motor vehicles.²⁵

He is a peace officer with the same powers as the sheriff.²⁶ The coroner acts as sheriff in event of the absence, personal interest, or incapacity of the sheriff, or vacancy in the sheriff's office.²⁷ All judicial writs against the sheriff are executed by the coroner. This duty includes the arrest and detention of the sheriff by the coroner.²⁸

The coroner is not required to keep records permanently.²⁹

²¹ Rev. Stat. 1838, ch. 99 (third act), sec. 1, p. 569. Rev. Stat. 1843, ch. 56, secs. 11, 13. 2 Rev. Stat. 1852, Acts 1879 (Spec. Sess.), 1913; Burns 49-2909, 49-2910, 49-2913; Baldwin 5443, 5444, 5447.

²² Const. 1816, art. 4, sec. 25; art. 5, sec. 1. Const. 1851, art. 3, sec. 1; art. 6, sec. 2; art. 7, sec. 1. *Stults v. Board of County Comrs.*, 168 Ind. 539, 81 N. E. 471 (1907); *Peoria Cordage Co. v. Industrial Board of Illinois*, 284 Ill. 90, 119 N. E. 996 (1918); *Spiegel's House Furnishing Co. v. Industrial Board of Illinois*, 288 Ill. 422, 123 N. E. 606 (1919); *People of New York v. Coombs*, 158 N. Y. 532, 53 N. E. 527 (1899).

²³ Acts 1817-18 (general), ch. 20, sec. 10. Rev. L. 1824, ch. 100, sec. 23. Rev. L. 1831, ch. 97, sec. 23. Rev. Stat. 1838, ch. 99 (first act), sec. 23. Rev. Stat. 1843, ch. 56, sec. 16. 2 Rev. Stat. 1852; Burns 49-2915; Baldwin 5449.

²⁴ Acts 1907. 1913; Burns 35-115; Baldwin 8398.

²⁵ Acts 1939; Burns, 1939 suppl., 47-1915, 47-1919; Baldwin, 1939 suppl., 11189-54, 11189-58.

²⁶ Acts 1817-18 (general), ch. 19, sec. 9; ch. 20, sec. 1. Acts 1820-21, ch. 13, sec. 2. Rev. L. 1824, ch. 100, sec. 9. Acts 1829-30, ch. 46, sec. 16. Rev. Stat. 1838, ch. 99 (first act), sec. 10. Rev. Stat. 1843, ch. 38, sec. 82. 2 Rev. Stat. 1852, Acts 1933; Burns 49-2901; Baldwin 5436.

²⁷ Acts 1816-17, ch. 13, sec. 9. Acts 1817-18 (general), ch. 19, sec. 9. Rev. L. 1824, ch. 37, sec. 2; ch. 100, sec. 9. Rev. L. 1831, ch. 97, sec. 9. Rev. Stat. 1838, ch. 99 (first act), sec. 9. Rev. Stat. 1843, ch. 38, sec. 83. 2 Rev. Stat. 1852; Burns 49-2902; Baldwin 5437.

²⁸ Acts 1819-20, ch. 46, sec. 2. Rev. Stat. 1843, ch. 38, sec. 84. 2 Rev. Stat. 1852; Burns 49-2903; Baldwin 5438.

²⁹ *Board of County Comrs. v. Gillum*, 92 Ind. 511 (1884). Information obtained from E. P. Brennan, state examiner, on August 30, 1939, by W. Davis Hamilton.

XVII. PROSECUTING ATTORNEY

LEGAL STATUS

The office of prosecuting attorney has existed in Tippecanoe County ever since 1826 under the mandatory requirements of acts of 1824, 1827, 1831, 1838, 1843, and 1847 and the Constitution of 1851. The prosecuting attorney is elected by the voters of the judicial circuit for a 2-year term without restrictions on reelection.¹ Tippecanoe County alone constitutes the twenty-third judicial circuit.²

He is commissioned by the Governor of Indiana³ and holds office until his successor is elected and qualified.⁴ He must be an elector of the judicial circuit at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the judicial circuit after his election, and must not hold any other lucrative office.⁶ An act of 1843, which was repealed by an act of 1852, provided: "No person shall be elected to the office of prosecuting attorney who shall not have a license to practice law in the circuit courts of this state."⁷

He must post bond in the amount of \$5,000 (to be approved by the circuit judge and filed with the clerk of the circuit court),⁸ and take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁹

¹ Const. 1851, art. 7, sec. 11. Acts 1851-52, ch. 8, sec. 1. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. Robinson v. Moser, 203 Ind. 66, 179 N. E. 270 (1931). See footnotes 20, 21 herein.

² Acts 1875, ch. 32, sec. 1.

From the organization of Tippecanoe County in 1826 until March 5, 1875 the county belonged to judicial circuits composed of more than one county. See the essay entitled "Circuit Court."

³ Const. 1816, art. 11, sec. 9. Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 73, secs. 1, 2. 2 Rev. Stat. 1852, pt. 3, ch. 3, sec. 6, p. 386. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁴ Const. 1851, art. 15, sec. 3. Rev. Stat. 1843, ch. 73, sec. 1.

⁵ Const. 1816, art. 14. Const. 1851, art. 6, sec. 4.

⁶ Const. 1816, art. 11, secs. 6, 13. Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456. State *ex rel.* Howard v. Johnston, 101 Ind. 223 (1885).

⁷ Rev. Stat. 1843, ch. 73, sec. 5 (repealed by 1 Rev. Stat. 1852, ch. 92).

⁸ Rev. L. 1824, ch. 24, sec. 11. Rev. L. 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 58, sec. 4; ch. 4, secs. 86-100. Acts 1851-52, ch. 8, sec. 2. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. 2 Rev. Stat. 1852; Burns 49-2502; Baldwin 5458.

⁹ Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Rev. L. 1824, ch. 24, sec. 11.

The prosecuting attorney of Tippecanoe County receives a regular salary of \$2,950 per year payable out of the county treasury.¹⁰ He is entitled to reimbursement for certain traveling expenses.¹¹ He is not permitted to retain, as compensation for himself, any fees collected by him.¹²

The prosecuting attorney may engage in the private practice of law, except as to matters which might conflict with his official duties.¹³

If the prosecuting attorney is convicted of corruption or other high crime, he may be removed from office by the supreme court. This is the only method by which he may be removed from office.¹⁴

Any vacancy in the office of prosecuting attorney is filled through appointment by the Governor. The appointee must take oath and post bond as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁵

Rev. L. 1831, ch. 10, sec. 3. Rev. Stat. 1838, ch. 9 (first act), sec. 3. Rev. Stat. 1843, ch. 4, secs. 77, 78, 83, 84, 92; ch. 58, sec. 3. 2 Rev. Stat. 1852, pt. 3, sec. 6, p. 386. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

¹⁰ Acts 1810, ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1, 2. Acts 1814, ch. 3, sec. 5. Rev. L. 1824, ch. 24, sec. 12. Acts 1825, ch. 17, sec. 8. Acts 1825-26, ch. 44, sec. 1. Rev. L. 1831, ch. 10, sec. 5. Rev. Stat. 1838, ch. 9 (first act), sec. 5. Rev. Stat. 1843, ch. 13, sec. 5. Acts 1858 (Spec. Sess.), ch. 12, sec. 2. Acts 1859, ch. 114, sec. 1. Acts 1933, 1937; Burns, 1940 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2681, 49-2695; Baldwin 7549, 7550. *Opinions of the Attorney General of Indiana, 1937*, p. 636; *1938*, p. 234.

¹¹ Acts 1913; Burns 49-2512; Baldwin 2267. Acts 1933, 1937; Burns, 1940 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

¹² Acts 1933; Burns 49-2601, 49-2695; Baldwin 7547, 7550. See footnote 69 herein.

¹³ Acts 1905; Burns 10-3102; Baldwin 2636. Acts 1917; Burns 10-3103, 10-3104; Baldwin 2637, 2638.

Liquor licenses. Acts 1901, 1913; Burns 49-2513; Baldwin 5467.

¹⁴ Const. 1851, art. 7, sec. 12. Acts 1816-7, ch. 10, sec. 15. Acts 1897; Burns 49-819; Baldwin 13152. *State ex rel. Gibson v. Friedley*, 135 Ind. 119, 34 N. E. 872 (1893); *State v. Patterson*, 181 Ind. 660, 105 N. E. 228 (1914); *State v. Redman*, 183 Ind. 332, 109 N. E. 184 (1915); *State ex rel. Williams v. Ellis*, 184 Ind. 307, 112 N. E. 98 (1916); *State v. Dearth*, 201 Ind. 1, 164 N. E. 489 (1929); *State ex rel. Youngblood v. Warrick Circuit Court*, 208 Ind. 594, 196 N. E. 254 (1935); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 29, 1939, by W. Davis Hamilton.

¹⁵ Const. 1851, art. 5, sec. 18; art. 6, sec. 9. Acts 1825-26, ch. 44, sec. 3. Rev. L. 1831, ch. 10, sec. 4. Rev. Stat. 1838, ch. 9 (first act), sec. 4. Rev. Stat. 1843, ch. 58, sec. 6; ch. 73, sec. 3. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-402, 49-404, 49-403, 49-409; Baldwin 13101, 13103, 13106, 13107. *State ex rel. Custer v. Schortemeier*, 197 Ind.

The prosecuting attorney may appoint such deputies as may be necessary. Their salaries are paid on warrants drawn by the auditor after an appropriation therefor by the county council and allowance of a claim therefor by the board of commissioners. The aggregate amount of deputies' salaries cannot exceed \$1,200 per year.¹⁶ The deputies must take the oath required of the prosecuting attorney, may perform all his official duties, and are subject to the same regulations and penalties.¹⁷ The prosecuting attorney may remove such deputies at any time and is responsible for their official acts.¹⁸ Whenever the prosecuting attorney is disqualified or fails to attend court the judge must appoint some person to act in his place.¹⁹

From the organization of Tippecanoe County in 1826²⁰ until 1827 a prosecuting attorney for the judicial circuit was appointed for a 2-year term by the Governor with the advice and consent of the senate. From 1827 until 1843 he was appointed for a 2-year term by joint ballot of the senate and house of representatives. From 1843 until 1847 he was elected for a 2-year term by the voters of the judicial circuit. From 1847 until 1851 his term was 3 years. Since 1851 his term has been 2 years.²¹

507, 151 N. E. 407 (1929). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1937; Burns, 1940 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2602, 49-2681, 49-2695; Baldwin 7548-7550.

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Stout v. State*, 93 Ind. 150 (1884).

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933; Burns 49-2602; Baldwin 7548.

¹⁹ Rev. L. 1824, ch. 24, sec. 12. Acts 1825, ch. 17, sec. 8. Acts 1833-34, ch. 92, secs. 1-4. Rev. Stat. 1838, ch. 9 (second act), secs. 1-4. Rev. Stat. 1843, ch. 58, sec. 8. Acts 1851-52, ch. 8, sec. 5. 2 Rev. Stat. 1852; Burns 49-2505; Baldwin 5461. *Perfect v. State*, 197 Ind. 401, 141 N. E. 52 (1926); *State ex rel. Williams v. Ellis*, 184 Ind. 307, 112 N. E. 98 (1916); *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²⁰ Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act).

²¹ Const. 1816, art. 12, secs. 3, 4. Const. 1851, art. 7, sec. 11. Acts 1810, ch. 10, sec. 5. Acts 1813-14, ch. 12, secs. 1-5; ch. 29, secs. 1, 2. Acts 1814, ch. 2, secs. 1, 2; ch. 3, secs. 4, 5. Acts 1816-17, ch. 3, sec. 2; ch. 26, sec. 1. Rev. L. 1824, ch. 24, secs. 9, 10. Acts 1825-26, ch. 44, sec. 1. Acts 1826-27, ch. 17, sec. 1. Rev. L. 1831, ch. 10, sec. 1. Rev. Stat. 1838, ch. 9 (first act), sec. 1. Acts 1842-43 (general), ch. 15, sec. 1. Rev. Stat. 1843, ch. 4, sec. 23; ch. 58, sec. 1; ch. 59, sec. 21; ch. 73, sec. 1. Acts 1846-47 (general), ch. 13, sec. 1. Acts 1850-51 (general), ch. 132, secs. 1-3. 2 Rev. Stat. 1852; Burns 49-2501; Baldwin 5456.

The prosecuting attorney's duties in the prosecution of criminal cases in Tippecanoe County were suspended from 1867 until 1875, during which time Tippecanoe County had a prosecuting attorney for the Tippecanoe Criminal Circuit Court. The county had a district attorney for the court of common pleas and the courts of the justices of the peace from 1853 until 1873.²²

FUNCTIONS AND RECORDS

The prosecuting attorney is a judicial officer.²³ He acts as attorney for the state in criminal cases under the state laws and as attorney for the state and county in certain civil cases.²⁴

Investigations of alleged violations of criminal laws are conducted by the prosecuting attorney,²⁵ the sheriff,²⁶ or the coroner,²⁷ cooperating with one another and with state and Federal bureaus of law enforcement;²⁸ and the results of such investigations, if they point toward violations of the law, are presented to the grand jury by the prosecuting attorney.²⁹

The prosecuting attorney or his deputy may appear before the grand jury for the purpose of interrogating witnesses or giving information relative to any matter cognizable by

²² See the essays entitled "Criminal Circuit Court (1867-75)," "Prosecuting Attorney, Criminal Circuit Court (1867-75)," and "District Attorney (1853-73)."

²³ State *ex rel.* Freed v. Martin Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938); State *ex rel.* Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²⁴ *Ibid.* Acts 1817-18 (general); ch. 4, sec. 2; ch. 48, sec. 4. Rev. L. 1824, ch. 24, sec. 10. Acts 1825-26, ch. 44, sec. 2. Acts 1829-30, ch. 9, sec. 4. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 13, sec. 233; ch. 37, sec. 101; ch. 73, sec. 4. Acts 1851-52, ch. 8, secs. 1, 3, 4. Acts 1933; Burns 2-229, 49-2695; Baldwin 44, 7550. Acts 1905; Burns 4-2409; Baldwin 11595. Acts 1939; Burns, 1940 suppl., 4-3802; Baldwin, 1939 suppl., 2008-2. 2 Rev. Stat. 1852; Burns 49-2501, 49-2503, 49-2504; Baldwin 5456, 5459, 5460. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754.

²⁵ Acts 1822-23, ch. 48, sec. 9. Acts 1905; Burns 9-706; Baldwin 2076. 2 Rev. Stat. 1852; Burns 49-2503; Baldwin 5459.

"Inquisitorial powers are vested in the office of the prosecutor and in grand juries, and not in judges and courts." State *ex rel.* Spencer v. Marion Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

²⁶ 2 Rev. Stat. 1852; Burns 49-2802; Baldwin 5494.

²⁷ 2 Rev. Stat. 1852, Acts 1871, 1879 (Spec. Sess.), 1935; Burns, 1940 suppl., 49-2904; Baldwin, 1935 suppl., 5439.

²⁸ Acts 1927; Burns 9-2603 to 9-2610; Baldwin 15353 to 15355, 15357 to 15361.

²⁹ Rev. Stat. 1843, ch. 5, secs. 162, 164. Acts 1905, 1927; Burns 9-806, 9-901, 9-908; Baldwin 2102, 2123, 2131.

it or giving requested advice on any legal matter, but he cannot be present during the deliberations of the grand jury.³⁰ When an indictment is found by the grand jury, the foreman writes thereon the words "A true bill," and signs his name thereunder. The indictment is also signed by the prosecuting attorney.³¹ The finding of an indictment must be kept secret until arrest is made.³² He cannot be held liable for causing the grand jury to return an indictment, though he acted maliciously and without probable cause.³³

The prosecuting attorney conducts all prosecutions for felonies and misdemeanors charged in indictments returned by the grand jury.³⁴ He may also prosecute on affidavit all criminal offenses under the state laws, other than treason and murder (which must be prosecuted on indictment).³⁵

³⁰ Acts 1905; Burns 9-826; Baldwin 2122. *Williams v. State*, 188 Ind. 283, 123 N. E. 209 (1919).

³¹ Acts 1905; Burns 9-901; Baldwin 2123. *Neal v. State*, 214 Ind. 328, 14 N. E. (2d) 590 (1938).

Endorsement by prosecuting attorney. 2 Rev. Stat. 1852, pt. 3, ch. 1, sec. 17, p. 363 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). *Taylor v. State*, 113 Ind. 471, 16 N. E. 183 (1888); *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *Hamer v. State*, 200 Ind. 403, 163 N. E. 91 (1928).

The statutory requirement that affidavits forming the basis of criminal prosecutions must be approved by the prosecuting attorney does not apply to indictments. *Peats v. State*, 213 Ind. 560, 12 N. E. (2d) 270 (1938).

³² 2 Rev. Stat. 1952, pt. 3, ch. 1, sec. 71, p. 370 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1881 (Spec. Sess.), ch. 46, sec. 103. Acts 1905; Burns 9-907; Baldwin 2130.

³³ *Griffith v. Slinkard*, 146 Ind. 117, 44 N. E. 1001 (1896).

³⁴ Rev. L. 1824, ch. 24, sec. 10. Acts 1825, ch. 17, sec. 7. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1838 (first act), ch. 9, sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460.

³⁵ Rev. Stat. 1843, ch. 58, sec. 2. 2 Rev. Stat. 1852, pt. 2, ch. 1, sec. 749, p. 198 (repealed by Acts 1865 (Spec. Sess.), ch. 57, sec. 1); pt. 3, ch. 1, secs. 19, 23, p. 363 (repealed by Acts 1881 (Spec. Sess.), ch. 36, sec. 323). Acts 1939; Burns, 1940 suppl., 4-3802; Baldwin, 1939 suppl., 2008-2. Acts 1905, 1927; Burns, 9-908; Baldwin 2131.

Endorsement by prosecuting attorney. *Robinson v. State*, 177 Ind. 263, 97 N. E. 929 (1912); *McSwane v. State*, 200 Ind. 548, 165 N. E. 319 (1929).

A court cannot compel the prosecuting attorney to approve the affidavit. *State ex rel. Freed v. Martin Circuit Court*, 214 Ind. 152, 14 N. E. (2d) 910 (1938).

"Criminal prosecutions cannot be instituted by private individuals. They may be initiated by grand jury indictment. Formerly the only other method was on information. For this latter procedure the legislature substituted prosecutions by affidavit, approved by the prosecuting attorney." *Ibid.*

"In him is vested discretionary judicial power to investigate and determine who shall be prosecuted and who shall not be prosecuted. If he fails to exercise his official discretion honestly and impartially, the remedy is by impeachment." *State ex rel. Spencer v. Marion Criminal Court*, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

It is the duty of the prosecuting attorney to superintend, on behalf of the county, all civil actions and proceedings in which the county may be interested or involved,³⁶ including suits to collect taxes and tax penalties³⁷ and suits against officers or on their bonds.³⁸

The prosecuting attorney prosecutes suits on forfeited recognizances,³⁹ suits to recover funds of certain decedents' estates unlawfully retained by an administrator,⁴⁰ suits against insurance companies,⁴¹ surety companies,⁴² and railroad

³⁶ Acts 1816-17 (general), ch. 32, sec. 9; ch. 72, sec. 5. Rev. L. 1824, ch. 24, sec. 10. Acts 1825, ch. 47, sec. 25; ch. 69, sec. 2. Rev. L. 1831, ch. 6, sec. 27; ch. 10, sec. 2; ch. 90, secs. 21, 27. Rev. Stat. 1838, ch. 9 (first act), sec. 2. Rev. Stat. 1843, ch. 13, sec. 233; ch. 14, sec. 35; ch. 15, sec. 128; ch. 48, sec. 84; ch. 58, sec. 2. Acts 1851-52, ch. 8, sec. 4. Acts 1865; Burns 28-312; Baldwin 5897. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. Board of County Comrs. v. Templer, 34 Ind. 322 (1870).

³⁷ Rev. L. 1824 ch. 86, secs. 23, 43. Acts 1825, ch. 47, sec. 25. Acts 1829, ch. 47, sec. 25. Rev. L. 1831, ch. 10, sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. Acts 188 (Spec. Sess.), ch. 96, sec. 222. Acts 1883, ch. 100, sec. 1. Acts 1927, ch. 176, sec. 4 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1931; Burns 6-2415; Baldwin 15953. Acts 1935, 1937; Burns, 1940 suppl., 12-912; Baldwin, 1937 suppl., 3764-41. Acts 1937; Burns, 1940 suppl., 16-320; Baldwin, 1937 suppl., 3811-4. Acts 1919; Burns 64-608, 64-719, 64-723, 64-1319, 64-1518, 64-1519, 64-2208, 64-2505; Baldwin 15576, 15633, 15637, 15723, 15772, 15773, 15815, 15854. Acts 1932 (Spec. Sess.); Burns 64-1511; Baldwin 15754. Acts 1933; Burns 64-921; Baldwin 15919. Acts 1933, 1937; Burns, 1940 suppl., 64-2627, 64-2628; Baldwin, 1937 suppl., 16607, 16609. Board of County Comrs. v. Templer, 34 Ind. 322 (1870); La Plante v. State *ex rel.* Goodman, 152 Ind. 80, 52 N. E. 452 (1899).

³⁸ Acts 1813, ch. 8, sec. 24. Acts 1816-17, ch. 8, sec. 22; ch. 17, sec. 13; ch. 19, secs. 14, 15. Acts 1817-18 (general), ch. 42, secs. 19-22; ch. 43, sec. 21; ch. 44, sec. 13. Acts 1818-19, ch. 8, sec. 2. Acts 1819-20, ch. 46, secs. 1, 2. Rev. L. 1824, ch. 22, sec. 6; ch. 23, sec. 8; ch. 24, secs. 9, 10; ch. 30, secs. 1-3; ch. 56, sec. 4; ch. 86, secs. 21, 23. Acts 1825, ch. 21, sec. 4; ch. 68, sec. 2. Acts 1827-28, ch. 23, sec. 3; ch. 88, sec. 6. Rev. L. 1831, ch. 10, sec. 2; ch. 81, sec. 46; ch. 90, sec. 6. Acts 1834-35 (general), ch. 18. Rev. Stat. 1838, ch. 9 (first act), sec. 2. Rev. Stat. 1843, ch. 58, sec. 2. 1 Rev. Stat. 1852; Burns 44-204; Baldwin 5635. Acts 1883; Burns 49-142; Baldwin 13094. Acts 1895; Burns 49-1408; Baldwin 7583. Acts 1917; Burns 60-227; Baldwin 13878. Acts 1919; Burns 64-2507, 64-2508; Baldwin 15856, 15857. Wood v. State *ex rel.* Canady, 125 Ind. 219, 25 N. E. 190 (1890); Wood v. Board of County Comrs., 125 Ind. 270, 25 N. E. 188 (1890).

³⁹ Acts 1816-17, ch. 5, sec. 1. Acts 1817-18 (general), ch. 4, sec. 1. Rev. L. 1824, ch. 57, sec. 1. Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. State v. Schloss, 92 Ind. 293 (1883).

⁴⁰ Acts 1881 (Spec. Sess.); Burns 6-1605; Baldwin 3237.

⁴¹ Acts 1899; Burns 39-222; Baldwin 9710. Acts 1933; Burns 39-1117; Baldwin 9823. Acts 1893; Burns 39-2618; Baldwin 9888.

⁴² Acts 1929; Burns 25-253; Baldwin 4957. Acts 1901; Burns 25-1218. Baldwin 9918.

companies to recover statutory penalties,⁴³ suits to recover gambling losses,⁴⁴ injunction suits to prevent violation of laws concerning horse racing,⁴⁵ tenement houses,⁴⁶ houses of ill fame,⁴⁷ and restraint of trade,⁴⁸ and injunction suits to prevent persons from engaging in trades and professions without licenses⁴⁹ or from engaging in business while delinquent in payment of gross income taxes.⁵⁰

He acts for the state when a surety on a forfeited recognizance sues the principal on the theory of subrogation of the rights of the state.⁵¹ He prosecutes bastardy proceedings,⁵² quo warranto proceedings,⁵³ and cases of surety of the peace.⁵⁴ He resists undefended divorce suits⁵⁵ and applications for change of names of persons; and protects the interests of all persons of unsound mind.⁵⁶ In lunacy proceedings he represents the person alleged to be insane.⁵⁷ He must be present at the hearing of proceedings to commit any person to a hospital operated by the trustees of

⁴³ Acts 1873; Burns 49-1918; Baldwin 15094. Acts 1895; Burns 55-620; Baldwin 14119. Acts 1911; Burns 55-913; Baldwin 14159. Acts 1907; Burns 55-924; Baldwin 14193.

⁴⁴ 1 Rev. Stat. 1852; Burns 10-2323; Baldwin 2806. *Ervin v. State ex rel. Walley*, 150 Ind. 332, 48 N. E. 249 (1897).

⁴⁵ Acts 1895; Burns 10-2711; Baldwin 9273.

⁴⁶ Acts 1913; Burns 20-579; Baldwin 9383.

⁴⁷ Acts 1915; Burns 9-2702; Baldwin 2586.

⁴⁸ Acts 1907; Burns 23-120; Baldwin 4786. Acts 1913; Burns 23-131; Baldwin 4797.

⁴⁹ Dentists. Acts 1913; Burns 93-513; Baldwin 5598. Physicians and surgeons. Acts 1897; Burns 63-1311; Baldwin 10712.

⁵⁰ Acts 1933, 1937; Burns, 1940 suppl., 64-2613(c); Baldwin, 1937 suppl., 15993(c).

⁵¹ Acts 1905; Burns 9-1045; Baldwin 2178.

⁵² 2 Rev. Stat. 1852; Burns 3-622; Baldwin 867.

⁵³ Acts 1819-20, ch. 74, sec. 3. Rev. L. 1831, ch. 62, sec. 3. Rev. Stat. 1843, ch. 48, secs. 46, 58. 2 Rev. Stat. 1852, pt. 2, ch. 1, secs. 749, 750. Acts 1881 (Spec. Sess.), 1929; Burns 3-2001, 3-2002; Baldwin 1045, 1046. 1 Rev. Stat. 1852; Burns 39-134; Baldwin 9611. Acts 1897; Burns 49-821 to 49-823, 49-831; Baldwin 13154 to 13156, 13164.

⁵⁴ Acts 1905; Burns 9-511; Baldwin 2059. *Davis v. State*, 38 Ind. 11, 37 N. E. 397 (1894).

⁵⁵ Acts 1817-18 (general), ch. 35, sec. 3. Rev. L. 1831, ch. 31, sec. 9. Rev. Stat. 1833, ch. 31, sec. 8. Rev. Stat. 1843, ch. 35, sec. 69. Acts 1873, 1913; Burns 3-1212 to 3-1215; Baldwin 916 to 919. *State v. Brinneman*, 120 Ind. 357, 22 N. E. 332 (1889); *Scott v. Scott*, 17 Ind. 309 (1861).

⁵⁶ Acts 1851-52, ch. 8, sec. 4. 2 Rev. Stat. 1852; Burns 49-2504; Baldwin 5460. *Martin v. Matsinger*, 130 Ind. 555, 30 N. E. 523 (1891).

⁵⁷ 2 Rev. Stat. 1852, Acts 1895; Burns 8-202; Baldwin 3460. *Chase v. Chase*, 163 Ind. 178, 71 N. E. 485 (1904). *Martin v. Matsinger*, 130 Ind. 555, 30 N. E. 523 (1891).

Indiana University.⁵⁸ He appears in guardianship proceedings for aged persons, spendthrifts,⁵⁹ and habitual drunkards.⁶⁰ Formerly he represented apprenticed minors in suits concerning breach of the terms of their indentures⁶¹ and prosecuted suits to recover the costs of cutting hedge fences when the work was done at county expense.⁶²

On appeals from certain examination boards in license matters he represents the boards.⁶³ On appeals from orders of the chief inspector of the state industrial board, the prosecuting attorney appears as counsel for the state to sustain and defend such orders.⁶⁴ He assists the Indiana Attorney General, on his request, in representing the Indiana Public Service Commission in any suit to which that commission is a party, if any hearing or trial of such suit will be held in the county.⁶⁵

The Attorney General of Indiana holds conferences with all prosecuting attorneys concerning the enforcement of the state laws.⁶⁶

The prosecuting attorney administers oaths⁶⁷ and performs the duties of notaries public.⁶⁸ He collects docket fees for his services in criminal prosecutions, divorce cases,

⁵⁸ Acts 1939; Burns, 1940 suppl., 28-5416, 28-5417; Baldwin, 1939 suppl., 14078-89b, 14078-89c.

⁵⁹ Acts 1911; Burns 8-301; Baldwin 3472. Acts 1919; Burns 8-302; Baldwin 3473.

⁶⁰ Acts 1867; Burns 8-401; Baldwin 3476.

⁶¹ Acts 1827-28, ch. 46, sec. 2. Rev. L. 1831, ch. 69, sec. 7. These laws were repealed by Rev. Stat. 1843, ch. 35; ch. 59, sec. 4.

⁶² Acts 1891, ch. 39, sec. 3. Acts 1895, ch. 33, sec. 3. This duty was abolished by Acts 1921, ch. 244, sec. 2.

⁶³ State board of medical registration and examination. Acts 1897, 1899, 1901; Burns 63-1306; Baldwin 10707.

State board of dental examiners. Acts 1913; Burns 63-520; Baldwin 5605.

Indiana Board of Pharmacy. Acts 1911; Burns 63-1120; Baldwin 13292.

State veterinary examining board. Acts 1905; Burns 63-1705; Baldwin 3946.

State board of barber examiners. Acts 1933; Burns 63-315; Baldwin 4070.

Miners' examination board. Acts 1923; Burns 46-1008; Baldwin 11073.

⁶⁴ Acts 1899; Burns 40-1019; Baldwin 10084.

⁶⁵ Acts 1913; Burns 54-106; Baldwin 13909. Acts 1917; Burns 60-228; Baldwin 13879.

⁶⁶ Acts 1931, 1933, 1937; Burns, 1940 suppl., 49-2601; Baldwin, 1937 suppl., 7547.

⁶⁷ Acts 1901; Burns 49-2506; Baldwin 5462. *Lenciania v. State*, 200 Ind. 528, 164 N. E.

271 (1929).

⁶⁸ Acts 1919; Burns 49-2507 to 49-2510; Baldwin 5463 to 5466.

suits on forfeited recognizances, and other suits which he is required to prosecute or defend, and pays such fees over to the county treasurer. He makes monthly reports to the board of commissioners concerning his activities and the amount of fees collected by him and turned over to the treasurer.⁶⁹

The state board of accounts has prescribed forms for an appearance record, fee book, and cashbook, to be kept by the prosecuting attorney, and a monthly report to be made by him.⁷⁰

276. [APPEARANCE RECORD AND FEE BOOK], 1936-. 1 vol. Record of criminal causes prosecuted and fees assessed and collected by prosecuting attorney, showing dates of appearance and collection; cause number; names of plaintiff, defendant, and court; disposition of cause; and amounts of fees charged and collected. Arr. chron. by dates of appearances. No index. Hdw. 100 pp. 13 x 13 x 1. Pros. atty. off., 2d fl., Schultz Bldg., Lafayette, Indiana.

XVIII. PROSECUTING ATTORNEY, CRIMINAL CIRCUIT COURT (1867-75)

LEGAL STATUS

From 1867 until 1875 Tippecanoe County had a prosecuting attorney for the Tippecanoe Criminal Circuit Court, who was elected for a 2-year term by the voters of the county. This office was separate and distinct from the office of prosecuting attorney provided for by the Constitution of 1851 and which is discussed in the essay entitled "Prosecuting Attorney."¹

⁶⁹ Rev. L. 1824, ch. 24, sec. 13; ch. 86, secs. 22, 24. Acts 1825-26, ch. 44, sec. 4. Rev. L. 1831, ch. 90, sec. 27. Acts 1861 (Spec. Sess.), ch. 25, sec. 4; ch. 28, sec. 1. Acts 1871, ch. 17, sec. 5. Acts 1873, ch. 48, sec. 16. Acts 1931; Burns 6-2436; Baldwin 15974. Acts 1905; Burns 9-706; Baldwin 2076. Acts 1929; Burns 25-253; Baldwin 4957. Acts 1919; Burns 49-2505, 64-608, 64-719, 64-723, 64-1519, 64-2508; Baldwin 5461, 15576, 15633, 15637, 15773, 15857. Acts 1875 (Spec. Sess.); Burns 49-2511; Baldwin 5468. Acts 1933, 1937; Burns, 1940 suppl., 49-2601; Baldwin, 1937 suppl., 7547. Acts 1933; Burns 49-2695; Baldwin 7550. Acts 1917; Burns 60-227; Baldwin 13678. *Opinions of the Attorney General of Indiana, 1938*, p. 238.

⁷⁰ Acts 1909; Burns 60-202; Baldwin 13855.

Information obtained from E. P. Brennan, state examiner, on May 13, 1939, by W. Davis Hamilton.

¹ Acts 1867, ch. 26, secs. 3, 4. Acts 1875, ch. 39, sec. 24. *Cropsy v. Henderson*, 63 Ind. 268 (1873); *Hench v. State ex rel. O'Rourke*, 72 Ind. 297 (1880).

FUNCTIONS AND RECORDS

The prosecuting attorney prosecuted in the Tippecanoe Criminal Circuit Court, on indictments returned by the grand jury or on information filed by himself, all criminal cases under the state laws, except offenses punishable only by fine not exceeding \$3; made investigations of crimes; cooperated with all other law enforcement officers in the state; represented the state at investigations and preliminary hearings held by justices of the peace concerning crimes within the jurisdiction of the criminal circuit court; and assisted in the collection of fines imposed by the latter court.²

This office was abolished in 1875 with the abolishment of the criminal circuit court.³

XIX. DISTRICT ATTORNEY (1853-73)

LEGAL STATUS

From 1853 until 1873 Tippecanoe County had a district attorney¹ who was elected biennially by the voters of the judicial district of the court of common pleas.² The district was composed of the counties of Tippecanoe and White from 1853 until March 1, 1859; Benton, Carroll, Tippecanoe, and White from March 1, 1859 until March 11, 1867; and Tippecanoe and Warren after March 11, 1867.³ He was required to post bond in the amount of \$5,000, to be approved by the judge of the court of common pleas and filed in the office of the clerk of the circuit court.⁴

FUNCTIONS AND RECORDS

The duties of the district attorney were similar to those of the prosecuting attorney, except that they extended only to the court of common pleas and the justice of the peace courts in the counties forming the judicial district of the court of common pleas. He prosecuted the pleas of the state

² 2 Rev. Stat. 1852, pt. 3, ch. 1, secs. 17, 19, p. 363; ch. 3, secs. 3-5, pp. 385, 386.

³ Acts 1875, ch. 39, sec. 24.

¹ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. Acts 1873, ch. 29, sec. 79.

² Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. 2 Rev. Stat. 1852, ch. 3, sec. 1, p. 385.

³ 2 Rev. Stat. 1852, ch. 8, sec. 3, p. 16. Acts 1859, ch. 51, sec. 1. Acts 1861, ch. 28, sec.

1. Acts 1867, ch. 30, sec. 1.

⁴ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 2. 2 Rev. Stat. 1852, ch. 3, sec. 2, p. 385.

in the court of common pleas and justice of the peace courts of such district;⁵ conducted all prosecutions for felonies or misdemeanors, and all suits on forfeited recognizances; resisted applications for changing names; superintended civil suits in which the county or its trust funds were interested or involved; and protected the interest of all persons of unsound mind.⁶ The court of common pleas had no jurisdiction of criminal cases after the establishment of the criminal circuit court in Tippecanoe County in 1867, and the district attorney's duties in Tippecanoe County were diminished accordingly.⁷

The office of district attorney was abolished in 1873 when the court of common pleas was abolished.⁸

XX. COUNTY ASSESSOR

LEGAL STATUS

The office of county assessor has existed in Tippecanoe County ever since 1891 under the mandatory requirements of acts of 1891 and 1919. The assessor is elected for a 4-year term by the voters of the county, and holds office until his successor has been elected and qualified. He receives a certificate of election from the clerk of the circuit court and is not commissioned by the Governor. The assessor must be an elector of the county at the time of his election, must have been a resident freeholder thereof throughout the preceding 4 years, must reside within the county after his election, and must not hold any other lucrative office. He must post bond in the amount of \$5,000, to be approved by and filed with the auditor.¹ The assessor must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.²

⁵ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 1. 2 Rev. Stat. 1852, ch. 3, sec. 1, p. 385. State v. Sweetser, 14 Ind. 292 (1860).

⁶ Acts 1851-52 (Spec. Sess.), ch. 8, sec. 4. 2 Rev. Stat. 1852, ch. 3, sec. 4, p. 386.

⁷ See the essay entitled "Criminal Circuit Court (1867-75)."

⁸ Acts 1873, ch. 29, sec. 79.

¹ Const. 1851, art. 2, sec. 9; art. 6, secs. 4, 6; art. 15, secs. 3, 6. Acts 1891, ch. 99, sec. 112. 1 Rev. Stat. 1852; Burns 49-201, 49-202; Baldwin 13095, 13096. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

² Const. 1816, art. 11, sec. 1. Const. 1851, art. 15, sec. 4. Acts 1816-17, ch. 19, sec. 1. Acts 1817-18 (general), ch. 42, sec. 3. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

The assessor receives a regular salary of \$1,720 per year, plus \$2.50 for each day spent in conference with the state board of tax commissioners, together with actual railroad fare to and from the place of holding such conferences.³ For his services as appraiser of decedent's estates, the circuit court allows him compensation between \$1 and \$50 for each estate appraised, based on the value thereof.⁴ He is entitled to reimbursement for expenses when temporarily working outside Tippecanoe County under direction of the board of commissioners.⁵ He is not permitted to retain, as compensation for himself, any fees collected by him, other than as stated above.⁶

For sufficient legal grounds the assessor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁷ If the assessor is convicted of a felony the judgment of conviction must declare his office vacant.⁸

For incompetency, neglect of duty, or misconduct in office, the assessor may be removed from office by the state board of tax commissioners after a hearing by that board. On appeal to the circuit court he may have a trial *de novo* on the charges sustained by the state board.⁹

Any vacancy in the office of assessor is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), an assessor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁰

³ Acts 1817-18 (general), ch. 42, sec. 23. Acts 1933; Burns 49-1004, 49-1011; Baldwin 7534, 7541. Acts 1919; Burns 64-1103; Baldwin 15698.

⁴ Acts 1931, 1933, 1939; Burns, 1940 suppl., 6-2408; Baldwin, 1939 suppl., 15946.

⁵ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

⁶ Acts 1933; Burns 49-1005; Baldwin 7535.

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

¹⁰ Const. 1851, art. 6, sec. 9. Rev. Stat. 1843, ch. 7, sec. 61. Acts 1881 (Spec. Sess.); Burns

Subject to the approval of the board of commissioners, the assessor may appoint one or more deputies to serve no more than 30 days in any calendar year. Each deputy receives \$4 per day as compensation. They have the same qualifications, powers, and duties as the assessor, are subject to his control and direction, and must take the oath of office required of the assessor.¹¹ With the approval of the board of commissioners, the assessor may also employ clerical assistants who shall each receive compensation not exceeding \$5 per day, pursuant to appropriation by the county council.¹²

From the organization of Tippecanoe County in 1826¹³ until 1841, assessors (often called listers) were appointed annually by the board doing county business, to list all property subject to taxation and to determine the value thereof (where the tax was based on value).¹⁴ Under acts of 1824 and 1831 any person refusing to accept his appointment as assessor was subject to a penalty of \$25.¹⁵ An act of February 10, 1841 provided for the election of a county assessor in each county for a 2-year term.¹⁶ The office of county assessor was abolished in 1852, and the duties thereof were transferred to township assessors elected for 2-year terms.¹⁷ From 1841 to 1872 real property was valued by appraisers appointed, from time to time as needed, by the board of commissioners.¹⁸ The elective office of county assessor (2-year term) replaced that of appraiser in 1872;¹⁹ but in 1875 the office was abolished, and the duties were transferred to

29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. Acts 1919, 1921; Burns 64-1101; Baldwin 15696. *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1869). *Opinions of the Attorney General of Indiana, 1936*, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹¹ 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919; Burns 64-1102; Baldwin 15698.

¹² Acts 1933; Burns 49-1011; Baldwin 7541.

¹³ Acts 1925-26, ch. 10, sec. 1 (Tippecanoe organization act).

¹⁴ Acts 1807, ch. 51, sec. 11; ch. 92, sec. 1. Acts 1811, ch. 35, secs. 1, 17. Acts 1813-14, ch. 32, secs. 1-3. Acts 1816-17, ch. 19, secs. 1-6, 8, 16. Acts 1817-18 (special), ch. 36, sec. 3. Acts 1817-18 (general), ch. 42, sec. 1. Rev. L. 1824, ch. 15, sec. 7; ch. 86, secs. 5-7. Rev. L. 1831, ch. 81, secs. 3-5. Rev. Stat. 1838, ch. 21, sec. 12.

¹⁵ Rev. L. 1824, ch. 86, sec. 29. Rev. L. 1831, ch. 81, sec. 4.

¹⁶ Acts 1840-41 (general), ch. 3, sec. 1.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 64; ch. 92, sec. 1.

¹⁸ Acts 1840-41 (general), ch. 1, secs. 1-12, 20. Acts 1850-51 (general), ch. 5, sec. 1. 1 Rev. Stat. 1852, ch. 6, secs. 44, 45. Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 107, 276.

township assessors elected for 2-year terms.²⁰ An act of March 6, 1891 reestablished the office of county assessor. Under this law the assessor was elected for a 4-year term, and was not eligible for reelection until 4 years after the expiration of the term for which he was elected. He was required to be a resident freeholder and householder of the county not less than 5 years before the date of his election.²¹ The act of 1891 was superseded by the act of 1919 mentioned in the first paragraph herein. In 1933 the office of township assessor was abolished in each township having a population not exceeding 5,000 (all townships except Fairfield and Wabash), and the duties of the office were transferred to the township trustee.²² Reference hereinafter to township assessors includes township trustees performing the duties prescribed by statutes for township assessors.

FUNCTIONS AND RECORDS

The duties of the county assessor are to examine tax duplicates and other records and papers in the office of the auditor, treasurer, recorder, clerk, sheriff, and surveyor, together with the returns of the township assessors; to discover, list, and assess (after notice to the owner) all omitted property of every kind, entering his valuations in a separate column on the township assessors' books; to receive lists of registrations of motor vehicles and trailers from the state motor vehicle commissioner, and to check, verify, and ascertain that all motor vehicles and trailers owned by the listed registrants residing in the county are on the assessment lists of the county; to advise and instruct the township assessors; to report to the state board of tax commissioners any incompetency or neglect of duty on the part of township assessors;²³ and determine the value of taxable intangibles.²⁴ Under appointments by the circuit court, he

²⁰ Acts 1875, ch. 97, secs. 2, 7, 9.

²¹ Acts 1891, ch. 99, sec. 112.

²² Acts 1933; Burns 64-1031; Baldwin 15664.

²³ Acts 1927, 1937; Burns, 1940 suppl., 47-129; Baldwin, 1937 suppl., 11145. Acts 1919; Burns 64-1102; Baldwin 15698. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. *McConnell v. Hampton*, 164 Ind. 547, 73 N. E. 1092 (1905); *Deniston v. Terry*, 141 Ind. 677, 41 N. E. 143 (1895). *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (1940), 22-30, 53-139.

²⁴ Acts 1933, 1935; Burns, 1940 suppl., 64-905; Baldwin, 1935 suppl., 15903. "Valuation of Intangibles," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939*, (1940), 39-53.

serves as appraiser of estates in the administration of the inheritance tax law.²⁵ He appraises school property in accordance with laws concerning transfer of pupils from one school to another.²⁶ He is a member and president of the county board of review.²⁷ His work is under the direction of the state board of tax commissioners.²⁸ Formerly the county assessor made out the assessment rolls (now made by the auditor),²⁹ took a census of deaf mutes in the county (now done by township assessors),³⁰ and kept a book showing the names of all blind, dumb, deaf, or insane persons in the county.³¹

Assessments by the county assessor under the property tax laws are subject to review by the county board of review. Such assessments are also reviewable by the circuit court on the question of taxability of the property.³²

The assessor must return to the auditor, on or before the 1st Monday after July 4 each year, all township assessors' books, returns, lists, schedules, maps, and other papers received by him from the auditor, together with such additional lists, assessments, books, and papers as he has made there-to.³³ He is not required to keep any records permanently.³⁴

277. [TOWNSHIP ASSESSORS' REPORTS], 1931-. 1 f. d., 2 f. b. Township assessors' weekly statistical reports to county assessor of assessments made, showing date of report, name

²⁵ Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1931, 1933, 1939; Burns 1940 suppl., 6-2408; Baldwin, 1939 suppl., 15946. "Inheritance Tax, *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939 (1940)*, 32-39.

²⁶ Acts 1901, 1909, 1915, 1921; Burns 28-3704; Baldwin 6288.

²⁷ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁸ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

²⁹ Rev. L. 1824, ch. 86, secs. 4, 5, 7. Acts 1838-39 (general), ch. 14, secs. 14, 15. Rev. Stat. 1847, ch. 12, sec. 28. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745.

³⁰ Acts 1838-39 (general), ch. 41, sec. 1. Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

³¹ Acts 1849-50 (general), ch. 17, secs. 2, 3.

³² Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

³³ Acts 1919; Burns 64-1102; Baldwin 15698.

³⁴ Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

of property owner and taxing unit, itemized list of property, valuation of property, and total assessed valuation. Arr. chron. by dates of reports. No index. Hdw. F. d., 6 x 36 x 30; f. b., 14 x 12 x 24. 1 f. d., 1931-33, janitors' rm.; 2 f. b., 1934-, assr. off.

278. [ASSESSOR'S REPORTS], 1931-. 2 f. d.

Copies of county assessor's bi-monthly reports to state board of tax commissioners of personal property assessments, showing dates of report and assessment; name of taxing unit; number, kind, and value of items assessed; and average value of property in taxing unit. Arr. chron. by dates of reports. No index. Hdw. 6 x 18 x 24. Aud. off.

279. [ASSESSOR'S PAPERS], 1935-. 12 f. b.

Contains:

- i. Appraisals of property of estates to determine amount of inheritance tax, showing date of appraisal; names of estate, heirs, and guardian, executor or administrator; value of estate; itemized list of claims; and amounts of exemption and inheritance tax.
- ii. Assessor's estimate of the valuation of school property, 1936-, showing date of estimate; names of township, school, and assessor; and value of land and improvements.
- iii. Copies of notices sent to owners of property not listed for taxation, showing date of notice, names of property owner and taxing unit, location and description of property, and amount of assessment.
- iv. Orders issued by state board of tax commissioners granting petitions for reassessment of property, showing dates of order and petition, name of petitioner, location and description of property, and amounts of new and old assessment.

Arr. chron. by dates of instruments. No index. Hdw. and typed. 11 x 5 x 14. Assr. off.

280. LAFAYETTE AND WEST LAFAYETTE, 1923. 1 map.

Land ownership and communication map, showing names and locations of streets, rivers, railroads, parks, public buildings, factories, original town, and additions; and number and location of state roads, blocks, and lots. Drawn by H. Fred Kessener, Lafayette, Indiana. Black and white. Scale: 1" to 240'. 60 x 78. Assr. off.

XXI. COUNTY BOARD OF REVIEW

LEGAL STATUS

The county board of review has existed in Tippecanoe County ever since 1891 under the mandatory requirements of acts of 1891,¹ 1895,² and 1919. The board is composed of the county assessor, auditor, and treasurer, and two freeholders of opposite political parties, appointed annually by the judge of the circuit court.³ An appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, and must reside within the county after his appointment.⁴ Every member must take an oath that he will support the State and Federal Constitutions and will faithfully discharge his duties as a member of the board of review and will assess, review, and equalize the assessment of all property of the county according to the true cash value of such property.⁵ The assessor and auditor are respectively the president and secretary of the county board of review.⁶

The appointed members of the county board of review receive, as compensation, \$5 for each day actually served as members of the board. Allowance therefor is made by the board of commissioners on claims supported by the certificate of the assessor. The assessor, auditor, and treasurer receive no compensation, in addition to their regular salaries, for their services on the board of review. Before 1933 the auditor and treasurer received, in addition to their regular salaries, \$5 per day for each day actually served as members of the board.⁷

For sufficient legal grounds any member of the county board of review may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury

¹ Acts 1891, ch. 99, sec. 114.

² Acts 1895, ch. 36, sec. 2.

³ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁴ Const. 1851, art. 6, secs. 4, 6.

⁵ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁶ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷ Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

or verified by the oath of any person; and such removal is subject to review by the supreme court.⁸ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁹ The judge of the circuit court fills vacancies as to members appointed by him.¹⁰ Any vacancy in the office of the other members is filled by replacement in the office of county assessor, auditor, or treasurer, as the case may be, the membership in the board of review being an incident to such office.¹¹

Before 1891 duties analogous to those of the present board of review were performed by the following officers and boards: From the organization of Tippecanoe County in 1826¹² through 1838, clerk of the circuit court and assessors or listers;¹³ 1839 through 1840, board of commissioners, clerk of the circuit court, and assessors or listers;¹⁴ 1841, board of commissioners, county assessor, and auditor (personal property only); 1841, board of equalization, composed of the board of commissioners, auditor, and appraiser (real estate only);¹⁵ 1842 through 1852, board of equalization, consisting of the board of commissioners, county assessor, and auditor;¹⁶ 1853 through 1871, board of equalization, composed of the board of commissioners, auditor, and assessors for personal property,¹⁷ and composed of the board of commissioners, auditor, and appraisers for real estate;¹⁸ 1872 through 1880, board of equalization, including the board of commissioners, county assessor, and auditor;¹⁹ and 1881 through 1890, board of equalization, consisting of the board

⁸ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-637; Baldwin 13052.

⁹ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹¹ See the essays entitled "Auditor," "County Assessor," and "Treasurer."

¹² Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act).

¹³ Rev. L. 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. L. 1831, ch. 81, secs. 5, 7, 8.

¹⁴ Acts 1838-39 (general), ch. 14, secs. 5, 14, 15.

¹⁵ *Ibid.* Acts 1840-41 (general), ch. 1, secs. 9, 13.

¹⁶ Acts 1840-41 (general), ch. 1, sec. 18.

¹⁷ 1 Rev. Stat. 1852, ch. 6, sec. 91. Acts 1867, ch. 110, sec. 2.

The Revised Statutes of 1852 became effective on May 6, 1853. *Jones v. Cavins*, 4 Ind.

305 (1853).

¹⁸ 1 Rev. Stat. 1852, ch. 35, sec. 2. *Jones v. Cavins*, 4 Ind. 305 (1853).

¹⁹ Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278.

of commissioners and four freeholders (from different parts of the county) appointed by the circuit judge.²⁰ The board of review under the act of 1891, referred to in the first paragraph of this essay, was composed of the county assessor, auditor, and treasurer;²¹ and from 1895 to 1918 it was composed, as at present, of the county assessor, auditor, treasurer, and two freeholders appointed by the circuit judge.²²

FUNCTIONS AND RECORDS

The county board of review hears complaints of taxpayers concerning new assessments (except those made by the state board of tax commissioners), reviews and corrects such assessments, equalizes new property valuations, and assesses omitted property. The tax list prepared by the county assessor and township assessors stands except in the particulars where it is changed by the board. The board has power to set aside the new assessments for the whole county or a whole taxing unit therein and to order another assessment by the county assessor and township assessors under instructions from the board.²³ The action of the board is subject to review by the state board of tax commissioners.²⁴ On questions of law concerning valuation of property, the decisions of the board of review and of the state board of tax commissioners may be reviewed by the circuit court; and appeal (on law and facts) may be taken from the board of review to the circuit court on the question of the property's taxability.²⁵

The board of review values and assesses the franchises, privileges, and capital stock of certain classes of corporations, and reviews the assessments of the tangible property of such corporations. Reports filed by these corporations with the county assessor are examined by the board. From the findings of the board the auditor computes the corporation

²⁰ Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

²¹ Acts 1891, ch. 99, sec. 114.

²² Acts 1895, ch. 36, sec. 2.

²³ Acts 1933; Burns 64-1031; Baldwin 15664. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1205; Baldwin 15700, 15704. "Uniformity of Assessments," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana, December 20, 21, 22, 1939* (Indianapolis, 1940), pp. 54-57.

²⁴ Acts 1919, 1935; Burns, 1940 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

²⁵ Acts 1927; Burns 64-1020; Baldwin 15686. Acts 1919, 1927; Burns 64-2103; Baldwin 15804. This statement of the scope of the appeal was suggested by Philip Zoercher, chairman of the state board of tax commissioners.

taxes to be placed on the tax duplicate. This action of the county board is reviewable by the state board of tax commissioners.²⁶

Sworn written statements to obtain tax deductions on mortgaged realty and to obtain tax exemptions of realty and personalty used for educational, charitable, religious, fraternal, literary, or scientific purposes are filed with the auditor each year and are presented by him to the board of review for decision thereon. The action of the board of review is reviewable by the state board of tax commissioners.²⁷

The board of review, after giving 2 weeks' notice, holds an annual meeting beginning on the 1st Monday of June;²⁸ and the session can last 40 days in any year in which the state board of tax commissioners orders reassessment of any real estate in the county, and 30 days in other years. Additional time for completing this board's duties may be allowed by the state board of tax commissioners.²⁹ A majority of all the members of the board of review constitutes a quorum for the transaction of business, and such majority must concur in decisions of the board. The sheriff serves all of the board's process not served by the assessor, and obeys all orders of the board. The auditor, as secretary, is required to keep full and accurate minutes of the proceedings of the board.³⁰ The county assessor, as president, keeps an attendance record; and, at the close of the session, certifies to the board of commissioners the number of days actually served by each member.³¹

281. BOARD OF REVIEW RECORD, 1891-. 20 vols.

Minutes of meetings of board of review, showing date of meeting, names of members present, subjects discussed, and actions taken. Arr. chron. by dates of meetings. No index. Hdw., 1891-1903; typed, 1904-. 75 pp. 14 x 10 x 1½. Aud. rec. rm.

²⁶ Acts 1919, 1921; Burns 64-723, 64-724; Baldwin 15637, 15638.

²⁷ Acts 1919, 1939; Burns, 1940 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. Acts 1937; Burns, 1940 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

No application for exemption is required as to property of the State of Indiana, the United States, municipal corporations, and political subdivisions of the state, nor for property owned and used by churches, state-accredited schools, hospitals, and college fraternities and sororities. Acts 1937; Burns, 1940 suppl., 64-215; Baldwin, 1937 suppl., 15518-4.

²⁸ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

²⁹ Acts 1919; Burns 64-1205; Baldwin 15704. Tax rule 6 (as amended July 1, 1939) of the state board of tax commissioners.

³⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

³¹ Acts 1919; Burns 64-1204; Baldwin 15703.

XXII. COUNTY BOARD OF TAX ADJUSTMENT

LEGAL STATUS

The county board of tax adjustment has existed in Tippecanoe County ever since 1932 under the mandatory requirements of acts of 1932,¹ 1933,² and 1937. The board consists of seven members, chosen as follows: One member of the county council, selected by the council; the mayor of the city of Lafayette or any public official of the city appointed by him; one member of the county board of education, selected by that board; and four persons who are citizens and freeholders of the county, appointed before April 15 each year by the judge of the circuit court and the judge of the superior court (each judge appointing two members), to hold office until April 15 of the following year. No more than four of the seven members of the board of tax adjustment may be members of the same political party. Each member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, must reside within the county after his appointment, and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.³

The county board of tax adjustment elects a chairman and a vice chairman from among its members: and the auditor acts as clerk, but has no vote in its proceedings. The members of the board serve without compensation. The board may employ one of the examiners of the state board of accounts to assist in the duties of the county board of tax adjustment; and the auditor pays from county funds the expenses in connection with such employment.⁴

For sufficient legal grounds any member of the county board of tax adjustment may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of

¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

² Acts 1933, ch. 237, sec. 4.

³ Const. 1851, art. 6, secs. 4, 6; art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁴ Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

conviction must declare his office vacant.⁶ A vacancy in the office of any member is filled in the manner provided by law for filling such office originally.⁷

Before 1932 no county officer or board performed duties analogous to those of the county board of tax adjustment, except that in 1920 the county's tax levies were reviewable by the county council.⁸ Since 1919, with the exception of 1920, the budgets, tax levies, and tax rates of the county and the taxing units therein have been reviewable directly by the state board of tax commissioners in certain instances.⁹ Before 1919 the sole remedy of a taxpayer to obtain a review of such budgets, tax levies, or tax rates was to apply to a court for an injunction.¹⁰

The board of tax adjustment under the act of 1932, referred to in the first paragraph of this essay, was composed of seven members, namely, the auditor, three members of the county council (selected annually by the council), and three members appointed annually by the judge of the circuit court.¹¹ The board established under the act of 1933 was composed of seven members appointed for 1-year terms. One member was appointed by the county council from the members of the council. The other six members were appointed by the judge of the circuit court, as follows: A township trustee; the mayor of a city or the president of the board of trustees of a town; a member of the board of school commissioners, board of school trustees, or board of education of a school city or school town; and three resident freeholders of the county at large, not holding any other public office by virtue of an election held or appointment made within the county, and not closely related to the executive head of any municipal corporation of which the board of tax adjustment had jurisdiction.¹²

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁸ Acts 1920 (Spec. Sess.), ch. 49, sec. 3. Information obtained from Philip Zoercher, chairman of the state board of tax commissioners, on May 22, 1939 by W. Davis Hamilton.

⁹ Acts 1919, 1920 (Spec. Sess.); Burns 64-1203, 64-1329, 64-1330; Baldwin 15707, 15733, 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

¹⁰ Toledo & W. R. Co. v. Lafayette, 22 Ind. 262 (1864); First Nat. Bank v. Greger, 157 Ind. 479, 62 N. E. 21 (1901). Information obtained from Philip Zoercher, chairman of the state board of tax commissioners, on May 22, 1939, by W. Davis Hamilton.

¹¹ Acts 1932 (Spec. Sess.), ch. 10, sec. 4.

¹² Acts 1933, ch. 237, sec. 4.

FUNCTIONS AND RECORDS

The board of tax adjustment reviews budgets, tax levies, and tax rates adopted by the county council for the county and also those adopted by the several taxing units within the county.¹³ The action of the board of tax adjustment is subject to review by the state board of tax commissioners.¹⁴

The board of tax adjustment meets on the 2d Monday in September each year, and from day to day thereafter as its business requires, and must complete its duties on or before October 1.¹⁵ The auditor, as clerk, keeps a complete record of the proceedings of the board.¹⁶

282. [MINUTES OF BOARD OF TAX ADJUSTMENT], 1933-. 1 f. d. Minutes of meetings of board of tax adjustment, showing date of meeting, names of members present, business discussed, and action taken. Arr. chron. by dates of meetings. No index. Typed. 5 x 16 x 20. Aud. off.

283. [TAX LEVIES], 1837-. In [Commissioners' Papers], entry 1.

Tax levies established or proposed by each taxing unit, showing date of statement, name of taxing unit, and itemized levy for each fund.

XXIII. BOARD OF FINANCE

LEGAL STATUS

The board of finance has existed in Tippecanoe County ever since 1907 under the mandatory requirements of acts of 1907, 1935, and 1937. Ever since 1907 the board has been composed of the county commissioners of Tippecanoe County, with the county auditor serving as secretary.¹

The county auditor and the county commissioners receive no compensation for their services as secretary and members,

¹³ Acts 1899; Burns 26-515; Baldwin 5379. Acts 1937; Burns, 1940 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹⁴ Acts 1937; Burns, 1940 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

¹⁵ Acts 1937; Burns, 1940 suppl., 64-310, 64-311; Baldwin, 1937 suppl., 15897-4, 15897-5.

¹⁶ Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

¹ Acts 1907, ch. 222, sec. 6 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, secs. 7, 43 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1937; Burns, 1940 suppl., 61-629, 61-663; Baldwin, 1937 suppl., 13844-50, 13844-84. For laws concerning eligibility, oath, and removal of these officers, see the essays entitled "Auditor" and "Board of Commissioners."

respectively, of the board of finance. From 1907 to 1932, and in 1935 and 1936, to auditor received \$50 per year.²

Before 1907 no county officer or board performed duties analogous to those of the board of finance.³

FUNCTIONS AND RECORDS

The board of finance has supervision of all public funds of the county and of the safekeeping and deposit thereof.⁴ After inviting proposals from each bank and trust company in the county, the board designates depositories for county funds,⁵ and for all fees and funds received by the clerk of the circuit court by virtue of his office.⁶ It may revoke the commission of any depository at any time.⁷ In the name of "The Board of Finance of Tippecanoe County," the board may sue and be sued in any action in any court of competent jurisdiction.⁸

The board of finance holds an annual meeting on the 3d Monday in January, at which it elects its president;⁹ and holds a biennial meeting on the 3d Monday in February, in the odd-numbered years, at which it considers proposals and designates depositories for the ensuing 2-year period.¹⁰ The board holds sessions whenever necessary to discharge its duties and accomplish the purposes of the laws governing it. A majority of the members constitutes a quorum for the transaction of business. All meetings are open to the public.¹¹

The board keeps as permanent records the depositories' monthly statements of deposits.¹² The auditor, as secretary

² Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 49-1001, 49-1004; Baldwin 7531, 7534. Acts 1937; Burns, 1940 suppl., 61-629; Baldwin, 1937 suppl., 13844-50. *Opinions of the Attorney General of Indiana, 1934*, p. 313; *1936*, p. 130.

³ Information obtained from E. P. Brennan, state examiner, on May 31, 1939, by W. Davis Hamilton.

⁴ Acts 1937; Burns, 1940 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

Defunct depositories. *Opinions of the Attorney General of Indiana, 1939*, p. 247.

⁵ Acts 1937; Burns, 1940 suppl., 61-634 to 61-636; Baldwin, 1937 suppl., 13844-55 to 13844-57.

⁶ Acts 1937; Burns, 1940 suppl., 61-673; Baldwin, 1937 suppl., 1438-1.

⁷ Acts 1937; Burns, 1940 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

⁸ Acts 1937; Burns, 1940 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

⁹ *Ibid.*

¹⁰ Acts 1937; Burns, 1940 suppl., 61-636; Baldwin, 1937 suppl., 13844-57.

¹¹ Acts 1937; Burns, 1940 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹² Acts 1937; Burns, 1940 suppl., 61-638; Baldwin, 1937 suppl., 13844-59.

of the board of finance,¹³ keeps a record of its proceedings. All records of the board are subject to public inspection.¹⁴

284. [BOARD OF FINANCE PAPERS], 1907-. In [Commissioners' Papers], entry 1.

Board of finance documents, including:

- i. Bonds posted by public depositories, showing date, amount, and conditions of bond; and names of principals and sureties.
- ii. Depository proposals, showing dates of instrument, acceptance, and filing; names and addresses of depository and officials; amounts of assets and liabilities; and conditions of proposal and contract.
- iii. Monthly depository statements, showing date of statement, name of depository, amounts of deposits and withdrawals, and amount of interest on minimum balance.

285. RECORD OF BOARD OF FINANCE, 1907-. 1 vol.

Minutes of meetings of board of finance, showing date of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. No index. Hdw. 584 pp. 16 x 12 x 8. Aud. off.

XXIV. COUNTY SCHOOL FUND BOARD

LEGAL STATUS

The county school fund board has existed in Tippecanoe County ever since 1935 under the mandatory requirements of an act of 1935. The board is composed of the county auditor, the clerk of the circuit court, and one member appointed by the judge of the circuit court for a 2-year term. No more than two members of the board may be adherents of the same political party.¹ The appointed member must be an elector of the county at the time of his appointment, must have been an inhabitant thereof throughout the preceding year, must reside within the county after his appointment,² and must

¹³ Acts 1937; Burns, 1940 suppl., 61-629; Baldwin, 1937 suppl., 13844-50.

¹⁴ Acts 1937; Burns, 1940 suppl., 61-633; Baldwin, 1937 suppl., 13844-54.

¹ Acts 1865, 1935; Burns, 1940 suppl., 28-209; Baldwin, 1935 suppl., 6558.

² Const. 1851, art. 6, secs. 4, 6.

take an oath to support the State and Federal Constitutions and faithfully discharge his duties.³

The appointed member of the county school fund board receives, as compensation, \$2 for each loan made by the board, which amount is taxed as a part of the costs and is paid by the borrower. The auditor and the clerk of the circuit court receive no compensation, in addition to their regular salaries, for their services on the county school fund board.⁴

For sufficient legal grounds any member of the county school fund board may be removed by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The judge of the circuit court fills the vacancy as to the member appointed by him.⁷ Any vacancy in the office of the other members is filled by replacement in the office of the county auditor or clerk of the circuit court, as the case may be, the membership in the county school fund board being an incident to such office.⁸

From 1829 to 1849 loans from the school funds were made by the county school commissioner. In 1849 this office was abolished and the duties thereof were divided between the auditor and the treasurer, under the direction of the board of commissioners.⁹ With appraisals made by the township trustees, the auditor had authority to make loans until 1935.¹⁰ An act of March 12, 1935 (repealed on March 9, 1937) authorized the auditor, with the approval of the board of commissioners, to employ an "administrator of the school

³ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

For the qualifications and oath of the ex officio members, see the essays entitled "Auditor" and "Clerk of the Circuit Court."

⁴ 1 Rev. Stat. 1852, ch. 98, sec. 69. Acts 1853, ch. 106, sec. 5. Acts 1865, 1935; Burns, 1940 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1881 (Spec. Sess.); Burns 4-303; Baldwin 1397. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *McComas v. Krug*, 81 Ind. 327 (intoxication) (1879).

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1865, 1935; Burns, 1940 suppl., 28-209; Baldwin, 1935 suppl., 6558.

⁸ See the essays entitled "Auditor" and "Clerk of the Circuit Court."

⁹ See the essay entitled "County School Commissioner (1829-49)."

¹⁰ 1 Rev. Stat. 1852, ch. 98, secs. 34, 35. Acts 1865, ch. 1, sec. 75.

fund loans" to make investigations, collections, and recommendations under the supervision of the auditor.¹¹

FUNCTIONS AND RECORDS

The school funds held by the county in trust for the purpose of making loans thereof are kept by the auditor in three accounts, to wit: The "common school fund," the "Congressional Township school fund," and the "permanent endowment fund of the Indiana University." These trust funds are loaned by the county school fund board. The county is held liable for both principal and interest. The interest on the common school fund and the Congressional township school fund is paid into the state treasury and is distributed semianually among the several counties on the basis of average daily attendance of school children therein. The interest on the permanent endowment fund of Indiana University is paid to the state treasurer, and he pays it to the trustees of Indiana University.¹²

All loans made by the county school fund board (except those made to the county) must be secured by first mortgages on real estate. The applicant for a loan must furnish the necessary title papers and an abstract of title; must make an affidavit that the abstract is a true one and that he knows of no encumbrance; and must present a certificate of the recorder and clerk of the circuit court that there is no encumbrance on the property. A title "derived from sale for taxes" cannot be accepted. The county attorney examines the title, and appraisers (annually appointed by the board of commissioners) ascertain the value of the property. The county school fund board, after considering the reports of

¹¹ Acts 1935, ch. 273 (repealed by Acts 1937, ch. 153).

¹² Const. 1851, art. 8, secs. 2-7. Acts 1865; Burns 28-101, 28-104, 28-105; Baldwin 6499, 6499-1, 6511. Acts 1907; Burns 28-102; Baldwin 6500. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490. Board of County Comrs. v. State *ex rel.* Hoard, 103 Ind. 497, 3 N. E. 165 (1885); Board of County Comrs. v. State *ex rel.* Baldwin, 116 Ind. 329, 19 N. E. 173 (1888); Board of County Comrs. v. State *ex rel.* Michener, 120 Ind. 442, 22 N. E. 339 (1889); Board of County Comrs. v. State *ex rel.* Michener, 122 Ind. 333, 24 N. E. 347 (1890); State *ex rel.* Michener v. Board of County Comrs., 5 Ind. App. 220, 32 N. E. 92 (1892).

Permanent endowment fund of Indiana University. Acts 1897; Burns 28-5542 to 28-5545; Baldwin 6908 to 6911. Acts 1883; Burns 28-5579; Baldwin 6956. Fisher v. Brower, 159 Ind. 139, 64 N. E. 614 (1902).

The sources of the funds held in trust for school purposes are discussed under the section entitled "Education" in the essay entitled "Governmental Organization and Records System."

the county attorney and appraisers, then determines whether the title and value of the property are sufficient security for the proposed loan.¹³

Not more than \$4,000 can be loaned to any one person or company.¹⁴ and the amount loaned cannot exceed one-half the last assessed valuation of the property for taxes.¹⁵ The interest rate on such loans (except those made to the county) is 5 percent per annum.¹⁶ Loans may be made to the county, on proper authorization by the county council, for a period not exceeding 5 years,¹⁷ and the rate of interest thereon is 6 percent per annum.¹⁸ No loan can be made for a term longer than 5 years. At the end of any year before default, the borrower may pay an amount not less than 10 percent of the original principal of the loan.¹⁹ Expenses of appraisers, abstract of title, and recording the mortgage are paid by the borrower except when the county pays such expenses upon order of the board of commissioners.²⁰ In making such loans preference must be given to the residents of the county.²¹ Loans may be made to corporations or individuals.²²

The mortgage must specify whether it belongs to the common school fund, to the permanent endowment fund of Indiana University, or to the Congressional township school fund, and, if the latter, the particular township or townships whose trust funds are loaned.²³ The auditor must immediately deliver the mortgage to the recorder for recording, and must deduct from the loan the amount of the recording fee.²⁴ Payments on these loans are made to the treasurer; and his receipt is filed with the auditor, who gives the

¹³ Acts 1865, 1935; Burns, 1940 suppl., 28-209; Baldwin, 1935 suppl., 6558. Acts 1881 (Spec. Sess.); Burns 28-210; Baldwin 6580. Acts 1865, 1885 (Spec. Sess.); Burns 28-211 to 28-213; Baldwin 6562, 6559, 6560.

¹⁴ Acts 1901; Burns 28-220; Baldwin 6564.

¹⁵ Acts 1901, 1903, 1923; Burns 28-221; Baldwin 6565.

¹⁶ Acts 1933; Burns 28-215; Baldwin 6574.

¹⁷ Acts 1901; Burns 28-201, 28-202; Baldwin 6568, 6569.

¹⁸ Acts 1901; Burns 28-204; Baldwin 6571.

¹⁹ Acts 1901; Burns 28-223; Baldwin 6567. Acts 1913; Burns 28-258; Baldwin 6610.

²⁰ Acts 1905; Burns 28-227; Baldwin 6619.

²¹ Acts 1865, 1885; Burns 28-214; Baldwin 6561.

²² *Opinions of the Attorney General of Indiana, 1938*, p. 104.

²³ Acts 1865; Burns 28-230 to 28-232; Baldwin 6587 to 6589.

²⁴ Acts 1865; Burns 28-233; Baldwin 6583.

payer a quietus therefor.²⁵ The auditor may accept, at face value, bonds of the Home Owners Loan Corporation or Federal Farm Mortgage Corporation (agencies of the United States) in payment of these loans when presented by said corporations or their agents.²⁶ Default in payment of interest when due causes the principal of the loan to become due and payable.²⁷ Borrowers from the school funds may have their mortgages renewed at the end of 5 years by giving notice to the auditor. Their property must be reappraised before such renewal.²⁸ The auditor forecloses or otherwise enforces the defaulted mortgages.²⁹ Whenever land acquired by the county through default on such loans cannot be sold by the auditor for an amount sufficient to cover the loan, the interest thereon, and expenses in connection therewith, the county may pay the loan, accept the land, and take possession thereof.³⁰

Whenever more than \$5,000 of the principal of any one of these funds remains unloaned in the county for 6 months, the county auditor must notify the auditor of state, and the unloaned moneys may be transferred to another county.³¹

The auditor and treasurer make annual reports to the board of commissioners showing the condition and activity of these school funds. The board of commissioners examines the reports, makes a written report of such examination, enters it of record, and transmits copies (signed by the auditor, treasurer, and county commissioners) to the state superintendent of public instruction and the auditor of state.³² Where the whole or part of the school funds of the county have been loaned, the auditor apportions to each

²⁵ Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

²⁶ Acts 1935; Burns, 1940 suppl., 28-268; Baldwin, 1935 suppl., 6572-1.

²⁷ Acts 1865; Burns 28-241; Baldwin 6585.

²⁸ Acts 1913; Burns 28-258; Baldwin 6610.

²⁹ Rev. Stat. 1843, ch. 13, sec. 96, p. 252. Acts 1855, ch. 86, sec. 86. Acts 1865, 1885 (Spec. Sess.), 1889, 1933; Burns 28-240 to 28-244, 28-246 to 28-249; Baldwin 6586, 6585, 6595 to 6597, 6599 to 6601, 6594. Webb v. Moore, 24 Ind. 5 (1865); Key v. Ostrander, 29 Ind. 1 (1867); Bonnell v. Ray, 71 Ind. 141 (1880); Willson v. Brown, 82 Ind. 471 (1882); Benefiel v. Aughe, 93 Ind. 401 (1884); Shannon v. Hay, 106 Ind. 589, 7 N. E. 376 (1886); Windstandley v. Crim, 117 Ind. 328, 20 N. E. 833 (1889); Haynes v. Cox, 118 Ind. 184, 20 N. E. 758 (1889); Work v. State *ex rel.* Holland, 120 Ind. 119, 22 N. E. 127 (1889); State *ex rel.* Longfellow v. Wimer, 166 Ind. 530, 77 N. E. 1078 (1906).

³⁰ Acts 1899; Burns 28-250 to 28-256; Baldwin 6602 to 6608.

³¹ Acts 1901; Burns 28-206; Baldwin 6573.

³² Acts 1855, ch. 86, secs. 88, 95. Acts 1865; Burns 28-259 to 28-262; Baldwin 6611 to 6614.

Congressional township a sufficient number of mortgages to cover the principal of its Congressional township school fund.³³ A "miscellaneous school fund account" with the Congressional township school fund may be kept by the auditor to enable him to aggregate small sums of available trust funds to be used for one loan. In his reports he shows fully the distribution of all school funds.³⁴

The auditor makes and keeps complete records of all loans made by the county school fund board, showing all payments and proceedings thereon.³⁵ The record entries for loans to counties are similar to those made for loans to private individuals.³⁶ Once each quarter the auditor publishes in a local newspaper a statement of the amount of school funds unloaned.³⁷

XXV. TREASURER

LEGAL STATUS

The office of treasurer has existed in Tippecanoe County ever since 1826 under the mandatory requirements of acts of 1824, 1831, 1838, 1841, and 1843 and the Constitution of 1851. The treasurer is elected for a 2-year term by the voters of the county.¹ He is commissioned by the Governor of Indiana² and holds office until his successor is elected and qualified.³ No person is eligible to hold the office more than 4 years in any 6-year period.⁴

The treasurer must be an elector of the county at the time of his election; must have been an inhabitant thereof

³³ Acts 1865; Burns 28-263; Baldwin 6615.

³⁴ Acts 1879; Burns 28-264 to 28-266; Baldwin 6616 to 6618.

³⁵ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573. Acts 1865, 1901; Burns 28-235 to 28-237; Baldwin 6592, 6593, 6610.

³⁶ Acts 1901; Burns 28-201 to 28-206; Baldwin 6568 to 6573.

³⁷ Acts 1883, ch. 58, sec. 1. Acts 1899, ch. 95, sec. 1. Acts 1907; Burns 28-207, 28-208; Baldwin 6556, 6557. Board of County Comrs. v. Leslie, 63 Ind. 492 (1878).

¹ Const. 1851, art. 6, sec. 2. Gemmer v. State *ex rel.* Stephens, 163 Ind. 150, 71 N. E. 478 (1904). See footnotes 22-27 herein.

² Const. 1851, art. 15, sec. 6. Rev. Stat. 1843, ch. 4, sec. 56. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

³ Const. 1851, art. 15, sec. 3.

⁴ *Ibid.*, art. 2, sec. 11; art. 6, sec. 2.

throughout the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office;⁶ and must not practice law.⁷

He must post an official bond covering his duties as county treasurer, to be approved by the board of commissioners and filed with the clerk of the circuit court. The bond must be in an amount not less than the amount of money which may come into his hands as county treasurer at any time during his term, as determined by the board.⁸ The county treasurer must also post bond covering his duties as treasurer of the city of Lafayette, to be approved by the mayor and filed with the city controller (the city clerk when the office of city controller does not exist as a separate office). The amount of the latter bond must be not less than one-half of the estimated amount of all funds which may come into his hands as city treasurer, as determined by the common council of the city.⁹ The treasurer must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.¹⁰

The treasurer receives a regular salary of \$2,920 per year for his services as county treasurer. He also receives a regular salary between \$480 and \$600 (fixed by the Lafayette common council) per year for his services as treasurer of the city of Lafayette. In addition to these salaries, he receives, as compensation for himself, 6 percent of all delinquent taxes on realty and personalty collected by him for the city of Lafayette, plus 6 percent of all other delinquent personal property taxes collected by him, plus a

⁵ *Ibid.*, art. 6, sec. 4. Rev. Stat. 1843, ch. 4, secs. 73, 74.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Rev. Stat. 1843, ch. 4, secs. 61, 75.

⁷ Acts 1865, ch. 42 (misnumbered 62), sec. 2. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *McCracken v. State*, 27 Ind. 491 (1867).

⁸ Acts 1816-17, ch. 17, sec. 2. Acts 1817-18 (general), ch. 44, sec. 2. Rev. L. 1824, ch. 23, sec. 1; ch. 86, secs. 18, 27. Rev. L. 1831, ch. 21, sec. 1; ch. 81, secs. 17, 19. Rev. Stat. 1843, ch. 4, secs. 88, 92-100; ch. 27, secs. 71-73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1851-52; Burns 49-123; Baldwin 13093. 1 Rev. Stat. 1852, Acts 1865, 1919; Burns 49-3101; Baldwin 5548. *Pepper v. State ex rel. Harvey*, 22 Ind. 399 (1864).

⁹ Acts 1905; Burns 48-1244; Baldwin 11423. Acts 1935; Burns, 1930 suppl., 48-1216; Baldwin, 1935 suppl., 11398.

¹⁰ Const. 1851, art. 15, sec. 4. Rev. L. 1824, ch. 86, sec. 18. Rev. L. 1831, ch. 81, sec. 17. Rev. Stat. 1843, ch. 4, secs. 77, 78, 81, 83, 84, 92; ch. 7, secs. 72, 73. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

"demand fee" of 50 cents on each collection of delinquent taxes resulting from personal demand. From 1919 until 1933 he also received \$5 per day for each day actually served as a member of the board of review of Tippecanoe County.¹¹

For sufficient legal grounds the treasurer may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the treasurer is convicted of a felony, the judgment of conviction must declare his office vacant.¹³ If the treasurer becomes officially delinquent and a suit is commenced on his official bond, he may be removed from office by the board of commissioners,¹⁴ but such removal is subject to review by the circuit court.¹⁵

Any vacancy in the office of treasurer is filled through appointment by the board of commissioners. The appointee must take oath and post bond, as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁶

¹¹ Acts 1816-17, ch. 17, sec. 12. Acts 1817-18 (general), ch. 44, sec. 12. Rev. L. 1824, ch. 23, sec. 7; ch. 86, sec. 34. Rev. L. 1831, ch. 21, sec. 5; ch. 81, sec. 40. Rev. Stat. 1838, ch. 22, sec. 5. Rev. Stat. 1843, ch. 7, sec. 90; ch. 12, secs. 59, 71. Acts 1871, ch. 17, secs. 29, 30. Acts 1905, 1909; Burns 48-6720; Baldwin 11524. Acts 1933; Burns 48-1227, 48-1233, 48-1238, 49-1001, 49-1004, 49-1016; Baldwin 11408, 11414, 11417, 7531, 7534, 7546. Acts 1933, 1937; Burns, 1940 suppl., 49-1006; Baldwin, 1937 suppl., 7536. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Town of Paoli v. Charles*, 164 Ind. 690, 74 N. E. 503 (1905). *Opinions of the Attorney General of Indiana, 1934*, p. 313; *1936*, p. 130.

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1816-17, ch. 17, sec. 3. Acts 1817-18 (general), ch. 44, sec. 3. Rev. L. 1824, ch. 23, sec. 2. Rev. L. 1831, ch. 21, sec. 6. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-827; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Rev. L. 1824, ch. 22, sec. 8; ch. 23, sec. 2. Rev. L. 1831, ch. 21, sec. 6. Rev. Stat. 1838, ch. 22, sec. 6. Rev. Stat. 1843, ch. 7, sec. 87. 1 Rev. Stat. 1852; Burns 49-3115; Baldwin 5562.

¹⁵ 1 Rev. Stat. 1852; Burns 26-901; Baldwin 5277.

¹⁶ Const. 1851, art. 6, sec. 9. Acts 1816-17, ch. 17, sec. 3. Acts 1817-18 (general), ch. 44, sec. 3. Rev. L. 1824, ch. 23, sec. 2. Rev. L. 1831, ch. 21, sec. 6. Rev. Stat. 1843, ch. 4, secs. 136, 139, 160, 162, 163, 168, 169; ch. 7, secs. 74, 87. Rev. Stat. 1843, ch. 7, sec. 74. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1859); *Beale v. State ex rel. Gray*, 49 Ind. 41 (1874); *Weaver v. State ex rel. Sims*, 152 Ind. 479, 53 N. E. 450 (1899). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

The treasurer may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes the salaries of the deputies and assistants in an amount not less than \$75 nor more than \$200 per month.¹⁷ The treasurer may, at his own expense, employ other persons to collect delinquent personal property taxes by personal demand.¹⁸ The treasurer may require any deputy to give bond.¹⁹ Each deputy must take the oath required of the treasurer, may perform all the official duties of the treasurer, and is subject to the same regulations and penalties.²⁰ The treasurer may remove such deputies and assistants at any time, and is responsible for their official acts.²¹

From the organization of Tippecanoe County in 1826²² until 1841 a county treasurer was annually appointed by the board doing county business.²³ He received and disbursed county funds; received taxes collected by the tax collector; collected the fees charged for the licensing of taverns, shows, and vending of foreign merchandise; kept a separate account of receipts from fines, to be used to support county seminaries; and made annual settlements with the board.²⁴ From 1826 to 1841 a county tax collector was appointed

¹⁷ Rev. L. 1831, ch. 81, secs. 17, 37. Rev. Stat. 1843, ch. 12, sec. 153. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁸ Acts 1933, 1937; Burns, 1940 suppl., 49-1006; Baldwin, 1937 suppl., 7536.

¹⁹ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

²⁰ Rev. Stat. 1843, ch. 4, sec. 85. 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109. *Lucas v. Shepherd*, 16 Ind. 368 (1861).

²¹ Rev. Stat. 1843, ch. 7, sec. 88; ch. 12, secs. 82, 153. 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

²² Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act).

²³ Acts 1816-17, ch. 17, secs. 1, 2. Acts 1817-18 (general), ch. 44, secs. 1, 2. Rev. L. 1824, ch. 15, sec. 7; ch. 23, sec. 1. Rev. L. 1831, ch. 21, sec. 1. Rev. Stat. 1838, ch. 22, sec. 1.

²⁴ Acts 1816-17, ch. 8, sec. 22; ch. 10, sec. 13; ch. 17, secs. 1-11; ch. 19, secs. 7, 13, 15; ch. 23, sec. 5; ch. 27, sec. 1; ch. 69, sec. 23. Acts 1817-18 (special), ch. 2, sec. 1; ch. 4, sec. 1, ch. 36, sec. 2. Acts 1817-18 (general), ch. 4, sec. 3; ch. 13, sec. 30; ch. 14, secs. 4, 25; ch. 32, sec. 9; ch. 42, secs. 3, 12, 14, 18, 22, 23, 25; ch. 43, sec. 21; ch. 44, secs. 1-11; ch. 47, sec. 2; ch. 62, secs. 2, 3; ch. 72, sec. 2; ch. 77, sec. 5; ch. 79, sec. 1. Rev. L. 1824, ch. 23, secs. 1-10; ch. 86, secs. 24, 25, 32, 36, 37. Acts 1826-27, ch. 72, sec. 6. Acts 1827-28, ch. 63, sec. 3. Rev. L. 1831, ch. 20, secs. 15, 17; ch. 21, secs. 1-10; ch. 81, secs. 14, 29, 31, 38, 39, 45, 46, 50. Rev. Stat. 1838, ch. 21, secs. 15, 17; ch. 22; ch. 41, sec. 8; ch. 105, secs. 1-6.

annually by the board.²⁵ The tax collector collected taxes (other than the license fees aforesaid); conducted tax sales; issued tax sale certificates and tax deeds; paid all collected funds over to the county treasurer and state treasurer; filed with the clerk of the circuit court a report concerning the sale of lands for delinquent taxes; and made and delivered to the clerk an alphabetical list of all white male persons of the age of 21 years residing in the county.²⁶ In 1841 the office of county tax collector was abolished and the duties of that office were transferred to the county treasurer. From 1841 until the adoption of the Constitution of 1851, the treasurer was elected for a 3-year term by the voters of the county.²⁷

FUNCTIONS AND RECORDS

The treasurer receives all moneys coming to the county, issues official receipts therefor, and disburses the same on warrants issued by the auditor. He countersigns each warrant and stamps thereon the name of the depository by which it is payable. He may pay a warrant to the holder thereof out of funds in his office after requiring the payee and holder to endorse the same, in which case he must deposit the warrant in the depository in lieu of the cash paid out to the holder; or he may require the holder to present the warrant to the depository for payment.²⁸ He must deduct any delinquent taxes owing by the payee.²⁹ If no funds are available to pay a warrant when presented for payment, the treasurer endorses thereon the words "not paid for want of funds" and

²⁵ Rev. L. 1824, ch. 86, secs. 18, 42. Rev. L. 1831, ch. 81, secs. 17, 18.

²⁶ Rev. L. 1824, ch. 23, secs. 6, 8, 11, 13; ch. 86, secs. 11-16, 19-28, 32, 34-37, 39-41, 45. Acts 1825, ch. 9, sec. 1. Acts 1829-30, ch. 9, sec. 5. Rev. L. 1831, ch. 20, secs. 15, 18, 19; ch. 21, secs. 2-4, 10; ch. 81, secs. 14, 17-46, 51. Rev. Stat. 1838, ch. 21, secs. 18, 19.

²⁷ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 4, secs. 1, 13-22. Rev. Stat. 1843, ch. 4, secs. 2, 18; ch. 7, secs. 70, 75-91; ch. 12, secs. 53-180. *Ham v. State ex rel. Williams*, 7 Blackford 344 (1844).

²⁸ Rev. L. 1824, ch. 23, sec. 2. Rev. L. 1831, ch. 21, sec. 2. Rev. Stat. 1838, ch. 22, secs. 1, 2. Rev. Stat. 1843, ch. 7, secs. 76-84, 91. Acts 1899, 1935; Burns, 1940 suppl., 26-522; Baldwin, 1935 suppl., 5386. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3103, 49-3104, 49-3111; Baldwin 5550, 5551, 5558. Acts 1937; Burns, 1940 suppl., 61-627; Baldwin, 1937 suppl., 18844-48. *State ex rel. Zable v. Benson*, 70 Ind. 481 (1880).

Estrays and driftage. Rev. Stat. 1838, ch. 37, secs. 1-19.

²⁹ Acts 1919; Burns 64-1506; Baldwin 15768.

the date of such presentment. When funds become available he publishes a call for redemption of such warrants.³⁰

The treasurer collects property taxes and poll taxes for the state and county and also for townships, cities, and towns in the county, as shown on the tax duplicate delivered to him by the auditor;³¹ reports omitted polls and property to the auditor for assessment;³² keeps an "insolvent record" of dropped taxes (prepared by the auditor);³³ keeps auditor's certificates correcting the tax duplicate;³⁴ sells real estate and personal property at public auction for delinquent taxes;³⁵ collects corporate taxes,³⁶ inheritance taxes,³⁷ and the excise tax on shares of stock and deposits of banks, trust companies, and loan associations;³⁸ sells intangible tax stamps for the state board of tax commissioners;³⁹ and collects school fund loans⁴⁰ and special assessments for public improvements;⁴¹ and collects certain military fines and pays the same to the adjutant general of the state.⁴² Records of these funds and transactions are kept by him.

All public funds paid into the county treasury must be deposited by the treasurer daily in one or more depositories designated by the county board of finance. The treasurer makes monthly reports to the board of finance showing the

³⁰ Acts 1822-23, ch. 36, secs. 3, 5. Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421.
1 Rev. Stat. 1852; Burns 49-3111; Baldwin 5558.

³¹ Rev. Stat. 1843, ch. 7, sec. 86; ch. 12, secs. 53-55, 62, 67, 174. Acts 1897, ch. 54, sec. 1. Acts 1905; Burns 48-6701, 48-6702, 48-6705; Baldwin 11511 to 11513. Acts 1919; Burns 64-1408, 64-1502; Baldwin 15745, 15748. Standard Oil Co. v. Bretz, 98 Ind. 231 (1884).

³² Acts 1919; Burns 64-2102; Baldwin 15803.

³³ Acts 1919; Burns 64-28001 Baldwin 15684.

³⁴ Acts 1919, 1925; Burns 64-1407; Baldwin 15744.

³⁵ Rev. Stat. 1843, ch. 7, sec. 89; ch. 12, secs. 56-67, 83-126. Acts 1932 (Spec. Sess.); Burns 64-1509, 64-1511; Baldwin 15752, 15754. Acts 1919, 1931; Burns 64-1701 to 64-1705, 64-2201, 64-2203 to 64-2211; Baldwin 15778 to 15782, 15806, 15808 to 15818. Acts 1919, 1931, 1937; Burns, 1940 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Pay v. Shanks, 55 Ind. 554 (1877).

³⁶ Acts 1919; Burns 64-1801; Baldwin 15783.

³⁷ Acts 1931; Burns 6-2413; Baldwin 15951.

³⁸ Acts 1933; Burns 64-804, 64-807, 64-810, 64-827; Baldwin 15585, 15588, 15591, 15608.

³⁹ Acts 1933; Burns 64-927; Baldwin 15925.

⁴⁰ Acts 1865; Burns 28235; Baldwin 6592.

⁴¹ Drainage. Acts 1933; Burns 27-134; Baldwin 5770.

Levees. Acts 1907, 1927, 1933; Burns 27-805; Baldwin 10214.

Roads. Acts 1905; Burns 36-1308; Baldwin 8794. Acts 1921; Burns 36-1439, 36-1440; Baldwin 8942, 8943.

⁴² Acts 1923; Burns 45-510; Baldwin 10894.

balance of funds in the county treasury at the end of the previous month—consistent with the depository statements furnished to the board and treasurer;⁴³ makes annual reports to the board of commissioners concerning school funds;⁴⁴ makes quarterly reports to the board of commissioners and auditor showing the amount of money in the county treasury;⁴⁵ makes monthly reports to the auditor showing the total amount of cash payments received by him during the month and the respective accounts on which they were applied;⁴⁶ makes annual settlements with the board of commissioners in January;⁴⁷ makes semiannual settlements for taxes with the county auditor in May and November,⁴⁸ and in accordance therewith pays to the state treasurer in June and December all money due for state purposes;⁴⁹ and also makes payments to the state treasurer at other times in accordance with official requests therefor.⁵⁰ He makes quarterly reports to the auditor showing specifically the amount of fees collected;⁵¹ and deposits quarterly with the auditor all redeemed warrants.⁵²

The treasurer must keep his office, books, and papers in a fireproof building (if available) and his office must be open for transaction of business during business hours.⁵³ He must keep a cashbook wherein are entered daily, by item, all receipts of public funds. The book must be balanced daily, show funds on hand at the close of each day, and be open to public inspection.⁵⁴ He keeps records of all receipts and

⁴³ Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1940 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

⁴⁴ Acts 1865; Burns 28-259; Baldwin 6611.

⁴⁵ Acts 1871, ch. 17, secs. 23, 31, 38. Acts 1891, ch. 194, sec. 125. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. Acts 1895, 1913; Burns 49-1403; Baldwin 7578. *Wolfe v. State ex rel. Kennard*, 90 Ind. 16 (1883).

⁴⁶ Acts 1871, ch. 17, sec. 31. Acts 1919; Burns 64-2101; Baldwin 15802.

⁴⁷ Rev. L. 1824, ch. 23, sec. 2. Rev. Stat. 1843, ch. 7, sec. 90. Acts 1899; Burns 26-531; Baldwin 5395. 1 Rev. Stat. 1852; Burns 49-3116; Baldwin 5663.

⁴⁸ Rev. Stat. 1843, ch. 12, secs. 68, 154. Acts 1919; Burns 64-2501; Baldwin 15850.

⁴⁹ Rev. Stat. 1843, ch. 12, secs. 68, 69. Acts 1919; Burns 64-2503, 64-2504; Baldwin 15852, 15853.

⁵⁰ Acts 1859, 1861; Burns 49-1813; Baldwin 15059. Acts 1937; Burns, 1940 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

⁵¹ Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577.

⁵² Rev. Stat. 1843, ch. 7, sec. 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561.

⁵³ Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3106; Baldwin 553. Acts 1853; Burns 49-3107, 49-3108; Baldwin 5556, 5557.

⁵⁴ Acts 1937; Burns, 1940 suppl., 61-623; Baldwin, 1937 suppl., 13844-44.

disbursements in a general account, and also in separate accounts for the separate appropriations and distinct funds.⁵⁵

Forms for the following record books have been prescribed for county treasurers by the state board of accounts: Daily balance of cash and depositories; record of warrants by depositories; ledger of receipts and disbursements; register of taxes collected; record of bids for bonds; and daily inventory of intangible tax stamps. This board has prescribed blank forms of monthly reports and various receipts.⁵⁶

The county treasurer is a member of the county board of review, which meets annually for the purpose of reviewing property tax valuations, assessing omitted property, and allowing tax exemptions.⁵⁷

The Tippecanoe County treasurer serves as ex officio treasurer of the city of Lafayette, and performs duties for the city similar to those he performs for the county.⁵⁸ As city treasurer he receives all funds paid into the city treasury and disburses the same on warrants drawn by the city controller⁵⁹ (the city clerk when the office of city controller does not exist).⁶⁰ He deposits all city funds in a depository selected by the city board of finance.⁶¹ All canceled warrants are returned to him by the depository, and he delivers them to the city controller for permanent filing.⁶² As county treasurer he collects city taxes and pays the same into the city treasury on receipts issued by

⁵⁵ Acts 1841-42 (general), ch. 4, sec. 5. Rev. Stat. 1843, ch. 7, sec. 75. 1 Rev. Stat. 1852; Burns 49-3109; Baldwin 5554.

⁵⁶ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, state examiner, on May 13, 1939, by W. Davis Hamilton.

⁵⁷ See the essay entitled "County Board of Review."

⁵⁸ Acts 1905; Burns 48-6701, 48-6705; Baldwin 11511, 11513. Acts 1935; Burns, 1940 suppl., 48-1216; Baldwin, 1935 suppl., 11398.

⁵⁹ Acts 1905, 1909; Burns 48-1602(3), 48-6724 to 48-6726; Baldwin 11467-3, 11527 to 11529. Acts 1937; Burns, 1940 suppl., 61-627; Baldwin, 1937 suppl., 13844-6.

Record of receipts issued (except taxes). Acts 1905; Burns 48-6725, 48-6727; Baldwin 11528, 11530.

Deduction of delinquent taxes owed by payee. Acts 1905; Burns 48-6726; Baldwin 11529.

Procedure when no funds are available to pay warrant. Acts 1905; Burns 48-6726; Baldwin 11529.

⁶⁰ Acts 1905, 1909, 1920, 1921; Burns 48-1503, 48-1601; Baldwin 11460, 11466. Acts 1933, 1935; Burns, 1940 suppl., 48-1216; Baldwin, 1935 suppl., 11398.

⁶¹ Acts 1907; Burns 61-610; Baldwin 13814. Acts 1937; Burns, 1940 suppl., 61-624; Baldwin, 1937 suppl., 13844-45.

⁶² Acts 1905; Burns 48-6723 to 48-6727; Baldwin 11526 to 11530.

the city controller.⁶³ As city treasurer he collects Barrett law assessments,⁶⁴ and license fees;⁶⁵ cancels all bonds or other evidence of indebtedness redeemed or liquidated by him;⁶⁶ makes monthly and annual settlements with the city controller; and makes reports to the city controller, showing receipts, disbursements, and balance for each fund in the treasury.⁶⁷ At least 15 days before the general city election, and at any other time when so required by the common council, he must render to the common council of the city a full account of the receipts and expenditures for the current year and make a report of the general condition of the treasury.⁶⁸

RECEIPTS AND DISBURSEMENTS
(See also entries 321-356)

GENERAL FUND

286. DAILY BALANCE BOOK, June 13, 1914-. 10 vols.

Daily record of cash on hand, showing itemized list of currency, coins, checks, and drafts; and date and amount of balance. Arr. chron. by dates of balances. No index. Hdw. 226 pp. 14 x 8 x 1/2. 5 vols., June 13, 1914-Oct. 3, 1929, treas. vt.; 5 vols., Oct. 5, 1929-, treas. off.

287. DAILY BALANCE OF CASH AND DEPOSITORIES, 1914-36, Dec. 28, 1937-. 19 vols. Title varies: Daily Balance Book, 1914-29, 10 vols.

Record of daily cash and depository balances, showing date of balance, amounts of opening and closing balance, nature and amounts of receipts and disbursements, amounts of deposits and withdrawals, and name of depository. Arr. chron. by dates of balances. No index. Hdw. 636 pp. 18 x 12 x 3. 16 vols., 1914-36, treas. vt.; 3 vols., Dec. 28, 1937-, treas. off.

⁶³ Acts 1905; Burns 48-6723 to 48-6727; Baldwin 11526 to 11530.

City warrants received as payment of taxes. Acts 1905; Burns 48-6725, 48-6726; Baldwin 11528, 11529.

⁶⁴ Acts 1905; Burns 48-6723 to 48-6725; Baldwin 11526 to 11528. Acts 1935; Burns, 1940 suppl., 48-4406; Baldwin, 1935 suppl., 12536.

City warrants received as payment of assessments. Acts 1905; Burns 48-6725; Baldwin 11528.

⁶⁵ Acts 1905, 1909; Burns 48-1602(8); Baldwin 11467(8).

⁶⁶ Acts 1905; Burns 48-6724 to 48-6727; Baldwin 11527 to 11530.

⁶⁷ Acts 1905; Burns 48-6723 to 48-6727; Baldwin 11526 to 11530.

⁶⁸ Acts 1905; Burns 48-6727; Baldwin 11530.

288. BANK BALANCES, 1908-26, 1938-. 3 vols.

Record of balances of county funds in public depositories, showing name of depository; and dates and amounts of deposits, withdrawals, and balances. Arr. alph. by names of depositories, thereunder chron. by dates of deposits. No index. Hdw. 320 pp. 18 x 12 x 2. 2 vols., 1908-26, treas. vt.; 1 vol., 1938-, treas. off.

289. MONTHLY BALANCE BOOK, 1912-. 3 vols.

Record of monthly balances of county funds, showing date of balance; amounts of receipts, disbursements, and previous and closing balances; and total. Arr. chron. by dates of balances. No index. Hdw. 320 pp. 18 x 16 x 2¼. 2 vols., 1912-33, treas. vt.; 1 vol., 1934-, treas. off.

290. BANK STATEMENTS, 1928-. 2 f. b., 2 f. d.

Monthly statements by county depositories, showing dates of statement, deposits, and withdrawals; name and address of depository; and amounts of deposits, interest, withdrawals, and opening and closing balances. Arr. chron. by dates of statements. No index. Typed. F. b., 5 x 8 x 12; f. d., 6 x 20 x 24. 1 f. b., 2 f. d., 1928-36, treas. vt.; 1 f. b., 1937-, treas. off.

291. LEDGER OF RECEIPTS AND DISBURSEMENTS, 1865-73, 1898-1910, Oct. 1924-. 6 vols. Title varies: County & State Revenue Ledger, 1865-73, 1 vol.; Ledger Congressional, Township, Common School and Miscellaneous Funds, 1898-1910, 3 vols.

Record of receipts and disbursements of county funds, showing date, nature, and amount of receipt and disbursement; receipt and warrant numbers; names of payer, payee, and fund; monthly totals of receipts and disbursements; and balance. This is a combination of two records intercurrently kept separately: Record of Receipts, entry 292; and Treasurer's Register of Disbursements, entry 293. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 500 pp. 16 x 12 x 3½. 4 vols., 1865-73, 1898-1910, treas. vt.; 2 vols., Oct. 1924-, treas. off.

292. RECORD OF RECEIPTS, 1912-Sept. 1924. 2 vols. 1865-73, 1898-1910, Oct. 1924- in Ledger of Receipts and Disbursements, entry 292.

Record of receipts of county revenue, showing date, number, nature, and amount of receipt; names of payer and fund; and total receipts. Arr. chron. by dates of receipts. No index. Hdw. 400 pp. 18 x 22 x 2. Treas. vt.

293. TREASURER'S REGISTER OF DISBURSEMENTS, 1911-Sept. 1924. 7 vols. (5 vols. unlabeled; 3, 4). Title varies: Appropriation Ledger, 1911-13, 3 vols.; Treasurer's Disbursement Record, 1914-20, 2 vols. 1865-73, 1898-1910, Oct. 1924- in Ledger of Receipts and Disbursements, entry 291.

Record of disbursements of county funds, showing date, number, nature, and amount of warrant; names of payee and fund; and total disbursements. Arr. by names of funds, thereunder chron. by dates of warrants. No index. Hdw. 400 pp. 17 x 28 x 2½. Treas. vt.

294. TREASURER'S RECEIPTS, 1911-. 13 vols. Title varies: Cash Book Miscellaneous, 1911-May 1924, 3 vols. June 1864-74, 1877-1910 in Cash Book, entry 295.

Record of receipts other than taxes, showing date, number, amount, and purpose of receipt; names of payer and fund; and total receipts. Arr. chron. by dates of receipts. No index. Hdw. 300 pp. 18 x 12 x 2. 4 vols., 1911-May 1924, 1938-, treas. off.; 9 vols., June 1924-37, treas. vt.

295. CASH BOOK, June 1864-74, 1877-1910. 50 vols. (5, 7; 2 vols. unlabeled; 4, 4, A-G, 7, H, 8, I, 9-41).

Record of receipts of all county revenue, showing date, number, nature, and amount of receipt; and names of payer and fund. This is a combination of two records later kept separately: Treasurer's Receipts, entry 294; and Cash Book [Taxes], entry 317. Arr. chron. by dates of receipts. No index. Hdw. 500 pp. 17 x 15 x 3. Treas. vt.

296. REGISTER OF COUNTY ORDERS, 1841-May 16, 1845, Sept. 1847-May 1849, Dec. 1851-June 1885, June 1, 1890-May 31, 1898, June 1, 1901-May 31, 1903. 18 vols. (3 vols. unlabeled; 3, 4; 6 vols. unlabeled; 3; 1 vol. unlabeled; 4-7, 9).

Record of county orders redeemed, showing date, number, nature, and amount of order; and names of payee and fund. Arr. chron. by dates of orders. No index. Hdw. 300 pp. 16 x 12 x 3. Treas. vt.

297. REGISTER OF WARRANTS, 1912-Mar. 3, 1913, 1920-29, Dec. 6, 1930-. 15 vols. Title varies: Treasurer's Cash Book Disbursements, 1912-Mar. 3, 1913, 1920-June 25, 1924, 3 vols.

Register of warrants by depositories, showing date, amount, and number of warrant; date redeemed; names of fund and depositories; and total. Arr. num. by warrant nos. No index. Hdw. 200 pp. 18 x 12 x 2½. 12 vols., 1912-Mar. 3, 1913, 1920-29, Dec. 6, 1930-37, treas. vt.; 3 vols., 1938-, treas. off.

298. [APPLICATIONS-TO-PAY], 1931-. 1 carton, 1 file cabinet.

Applications to pay funds into treasury, showing date and number of application, names of payer and fund, and amount and purpose of payment. Arr. chron. by dates of application-to-pay. No index. Hdw. Carton, 14 x 8 x 24; file cabinet, 36 x 24 x 24. 1 carton, 1931-37, attic stor. rm.; 1 file cabinet, 1938-, treas. off.

299. JOURNAL OF COUNTY ORDERS, 1841-June 1852, 1871-Mar. 1, 1886. 2 vols. (1 vol. unlabeled; 2). Title varies: Journal, 1841-June 1852, 1 vol.

Record of orders redeemed on county officers' fund, showing date, number, and amount of order; date redeemed; and names of payee and fund. Arr. chron. by dates redeemed. No index. Hdw. 530 pp. 18 x 12 x 2½. Treas. vt.

300. REGISTER OF FREE GRAVEL ROAD ORDERS, 1891-1903. 2 vols.

Record of disbursements of free gravel road funds, showing date, number, nature, and amount of order; date redeemed; and name of payee. Arr. chron. by dates of orders. No index. Hdw. 500 pp. 16 x 12 x 3. Treas. vt.

301. [WARRANTS OUTSTANDING], 1919-29. 1 vol.

Record of outstanding warrants, showing date, amount, and number of warrant; date of recording; and names of payee, fund, and depository. Arr. chron. by dates of recording. No index. Hdw. 490 pp. 16 x 10 x 2. Treas. vt.

302. TREASURER'S MONTHLY STATEMENT, 1913-25. 3 vols. County treasurer's monthly statements to auditor of state of funds remitted to state treasurer, showing date of statement, amount and number of warrant, names of funds, and amount of each fund. Arr. chron. by dates of statements. No index. Hdw. 50 pp. 10 x 18 x ¼. Treas. vt.

TAXATION

(See also entries 357-370)

REAL, PERSONAL AND POLL

303. TAX DUPLICATE [and Delinquent List], 1877-. 880 vols. (labeled by names of taxing units).

Record of taxes payable and amounts returned delinquent, showing installment dates; duplicate number; names of taxpayer and taxing unit; location, description, and assessed valuation of lands, lots, and improvements; value of personal property; number of polls; amounts of special assessments

and exemptions; and date and amount of payment. This is a combination of two records formerly kept separately: Tax Duplicate, entry 304; and Delinquents, entry 305. Also contains: Tax Duplicate, Omitted Taxes, 1910-, entry 306; and Ditch Duplicate, 1885-95, entry 315. Arr. alph. by names of property owners. No index. Hdw. 180 pp. 18 x 19 x 1½. 850 vols., 1877-1937, treas. vt.; 9 vols., 1938, assr. off.; 21 vols., 1939-, treas. off.

304. TAX DUPLICATE, 1843-76. 522 vols. (labeled by names of taxing units). 1877- in Tax Duplicate [and Delinquent List], entry 303.

Record of taxes payable, showing installment date; names of property owner and taxing unit; duplicate number; location, description, and assessed valuation of lands, lots, and improvements; value of personal property; number of polls; special assessments; amount of exemptions; and date and amount of payment. Arr. alph. by names of property owners. No index. Hdw. 100 pp. 18 x 15 x ½. Treas. vt.

305. DELINQUENTS, 1846-76. 600 vols. 1877- in Tax Duplicate [and Delinquent List], entry 303.

Record of delinquent taxes, showing dates of delinquency and payment; names of property owner and taxing unit; location, description, and valuation of property; duplicate number; and amounts of delinquency, interest, and penalties. Arr. alph. by names of property owners. No index. Hdw. 75 pp. 17 x 13 x ½. Treas. vt.

306. TAX DUPLICATE, OMITTED TAX, 1881-1909. 3 vols. (1, 2, 5). 1910- in Tax Duplicate [and Delinquent List], entry 303.

Record of additions to tax duplicates of omitted taxes, showing date of addition, name and address of property owner, name of taxing unit, and description and assessed valuation of property. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 358 pp. 18 x 22 x 2. Treas. vt.

307. INSOLVENT TAX RECORD, 1922-. 3 vols.

Record of delinquent personal and poll taxes removed from tax duplicates as uncollectible, showing date of delinquency; names of property owner and taxing unit; description of property; amounts of delinquent tax, penalty, and interest; entry and tax duplicate numbers; and reason for removal. Arr. num. by entry nos. No index. Hdw. 500 pp. 18 x 16 x 3. 2 vols., 1922-Mar. 1932, treas. vt.; 1 vol., Apr. 1932-, treas. off.

308. MORATORIUM TAX DUPLICATE, 1934-. 1 vol.

Record of taxpayers who have elected to pay delinquent taxes on moratorium plan, showing date and amount of moratorium, names of taxpayer and taxing unit, location and description of property, duplicate number, schedule of installments, interest and due date of each, dates and amount of payments, and balance due. Arr. by taxing units, thereunder num. by duplicate nos. No index. Hdw. 18 x 16 x 3. Treas. vt.

309. WORK SHEETS, 1935. 12 vols. (labeled by taxing units).

Recapitulation of delinquent taxes, showing date of delinquency, names of taxpayer and taxing unit, duplicate number, location and description of property, and amounts of tax and penalty. Arr. alph. by names of taxpayers. No index. Hdw. 300 pp. 18 x 10 x 6. Treas. vt.

INHERITANCE AND INTANGIBLE

310. INHERITANCE AND TRANSFER RECORDS, 1913-. 5 vols. (1-3; 2 vols. unlabeled).

Copies of receipts issued for payment of inheritance and transfer taxes, showing cause number; date, number, nature, and amount of receipt; date of decedent's death; and names of estate, heirs, and administrator or executor. Arr. num. by receipt nos. Indexed alph. by names of estates. Hdw. 596 pp. 14 x 24 x 3½. 3 vols., 1913-27, attic stor. rm.; 2 vols., 1928-, treas. off.

For other inheritance tax records, see entries 91, 194, 195, 311.

311. [INHERITANCE AND INTANGIBLE TAXES], 1914-. 6 f. d. Contains:

- i. Copies of court orders determining amount of inheritance tax due, showing dates of hearing and order, names of deceased and heirs, relationship of heirs to deceased, amount of deduction for indebtedness, and rate and amount of tax. Arr. chron. by dates of orders.
- ii. Copies of receipts for payment of inheritance tax, showing date of receipt; names of payer, estate, heirs, and administrator or executor; location and description of property; receipt and cause numbers; and amounts of tax, discount or interest, and payment. Arr. chron. by dates of receipts.

- iii. Copies of monthly reports of intangible tax stamp sales, showing date and number of report and sales, names of purchaser and taxing unit, and amount of sales. Arr. chron. by dates of reports.

No index. Hdw. 4 f. d., 6 x 18 x 18; 1 f. d., 6 x 14 x 30; 1 f. d., 4 x 9 x 12. 4 f. d., 1914-37, treas. vt.; 2 f. d., 1922-, treas. off.

For other inheritance tax records, see entries 91, 194, 195, 310.

312. RECORD OF INTANGIBLE TAX STAMPS, 1933-. 3 vols. Daily inventory of intangible tax stamps, showing date of inventory; and number and denominations of stamps received, sold, and on hand. Arr. chron. by dates of inventories. No index. Hdw. 150 pp. 8 x 5 x 1/2. Treas. off.

313. RECEIPTS FOR EXCISE TAX, Apr. 21, 1933-. 4 vols. Copies of receipts issued for payment of intangible tax by banks and building and loan associations, showing date, amount, number, and nature of receipt; and name of payer. Arr. num. by receipt nos. No index. Hdw. 160 pp. 18 x 12 x 1/2. 3 vols., Apr. 21, 1933-37, treas. vt.; 1 vol., 1938-, treas. off.

314. INHERITANCE AND TRANSFER TAX REPORTS, Apr. 1936-. 1 vol.

Duplicate reports to auditor of state of inheritance and transfer tax collections remitted to treasurer of state, showing date of report; names of payer, estate, heirs, and administrator or executor; cause number; relationship of payer to decedent; amounts of tax and discount or interest; and amount paid. Arr. num. by cause nos. No index. Hdw. 200 pp. 10 x 16 x 1. Treas. off.

PUBLIC IMPROVEMENT (see also entries, 13-17, 439-449, 460-464)

315. DITCH DUPLICATE, 1896-. 3 vols. 1885-95 in Tax Duplicate [and Delinquent List], entry 303.

Record of assessments for construction and maintenance of ditches, showing dates of installments and payments; names of property owner and ditch; location and description of property; receipt number; and amounts of assessment, installment, delinquency, penalty, interest, and payment. Arr. by names of ditches, thereunder alph. by names of property owners. Indexed alph. by names of ditches and property owners. Hdw. 400 pp. 18 x 18 x 2. Treas. vt.

316. FREE GRAVEL ROAD TAX DUPLICATE, 1882-99, 1904-8.
23 vols.

Record of assessments for construction and maintenance of free gravel roads, showing dates of installments and payments; duplicate number; names of property owner and road; location and description of property; and amounts of assessment, installment, delinquency, penalty, interest, and payment. Arr. alph. by names of taxpayers. No index. Hdw. 378 pp. 18 x 22 x 2½. Treas. vt.

COLLECTION

317. CASH BOOK [Taxes], 1911-. 58 vols. (1 vol. unlabeled; 2, 3, 3-11, 10-23; 1 vol. unlabeled; 24-38, 38-41, 43, 42, 44-53). June 1864-74, 1877-1910 in Cash Book, entry 295.

Daily record of taxes collected, showing date and amount of collection, tax duplicate number, and names of taxpayer and fund. Arr. by taxing units, thereunder chron. by dates of collections. No index. Hdw. 630 pp. 18 x 12 x 3. 55 vols., 1911-37, treas. vt.; 3 vols., 1938-, treas. off.

318. [TAX RECEIPTS], 1929-. 70 cartons, 5 file cabinets. Duplicates of receipts issued for tax payments, showing date and amount of payment; duplicate and receipt numbers; names of taxpayer and taxing unit; location, description, and assessed valuation of land; assessed valuation of improvements and personal property; number of polls; and amounts of tax, exemption, and payment. Arr. by names of taxing units, thereunder alph. by names of taxpayers. No index. Typed. Cartons, 6 x 10 x 24; file cabinets, 18 x 6 x 30. 12 cartons, 1929-31, attic stor. rm.; 58 cartons, 1929-37, treas. vt.; 5 file cabinets, 1938-, treas. off.

MAPS

319. TIPPECANOE COUNTY, not dated. 1 map.

Communications map, showing names and boundary lines of civil townships; Congressional townships; range and section lines and numbers; plats of farms and tracts; number of acres and owner's name; and location of highways, rural routes, and railroads. Ptd. No scale given. 24 x 24. Treas. off.

320. WARD AND PRECINCT MAP, not dated. 3 maps.

Political and communications maps of Lafayette and West Lafayette, showing names and locations of streets, public buildings, railroads, highways, and rivers; and precinct and ward numbers and boundaries. Blueprints. Scale: 4" to 1 mile. 24 x 30. Treas. off.

XXVI. TAX COLLECTOR (1827-41)

LEGAL STATUS

From 1827 until 1841 Tippecanoe County had a tax collector who was appointed for a 1-year term by the board of commissioners.¹ He posted bond in the amount of \$5000, which was approved by the board of commissioners and filed with the clerk of the circuit court.² The law provided that any vacancy in the office of tax collector was to be filled through appointment by the clerk of the circuit court³ and that the executor, administrator, or legal representative of a deceased tax collector should collect the taxes which had been charged against the decedent as tax collector.⁴

FUNCTIONS AND RECORDS

The tax collector collected taxes;⁵ conducted tax sales; issued tax sale certificates and tax deeds;⁶ made and delivered to the clerk of the circuit court an alphabetical list of all white male persons of the age of 21 years or over;⁷ prosecuted persons for failure to obtain licenses for public exhibitions;⁸ and paid over to the state treasurer, the amount of taxes collected for the state,⁹ and to the county treasurer, all funds collected for the county.¹⁰

An act of 1841 abolished the office of county tax collector and transferred the duties thereof to the county treasurer.¹¹

¹ Rev. L. 1824, ch. 86, secs. 18, 42. Acts 1827-28, ch. 64, sec. 1. Acts 1828-29, ch. 16, sec. 9. Rev. L. 1831, ch. 81, secs. 17, 18, 27, 33. Commissioners' Record A:21. See footnote 11 herein.

² Rev. L. 1824, ch. 86, secs. 18, 27. Rev. L. 1831, ch. 81, sec. 17.

³ Rev. L. 1824, ch. 86, sec. 30.

⁴ *Ibid.*, ch. 23, sec. 6; ch. 68, secs. 1, 2.

⁵ Rev. L. 1824, ch. 23, secs. 2, 6, 9, 11, 13; ch. 24, secs. 10, 12; ch. 68, secs. 1, 2; ch. 86, secs. 11-16, 32, 41, 42. Acts 1825, ch. 47, secs. 7, 22, 28; ch. 49, sec. 5. Acts 1825-26, ch. 58, sec.

4. Acts 1826-27, ch. 72, secs. 2, 3, 14. Rev. L. 1831, ch. 81, secs. 14, 20, 34; ch. 82, sec. 39.

⁶ Rev. L. 1824, ch. 86, secs. 34-36, 40, 41. Acts 1825, ch. 47, sec. 11. Acts 1825-26, ch. 58, sec. 2. Acts 1827-28, ch. 33, sec. 1; ch. 77, sec. 36. Acts 1828-29, ch. 84, sec. 22. Rev. L. 1831, ch. 81, secs. 22, 24-26, 29-31.

⁷ Acts 1829-30, ch. 9, secs. 4, 5.

⁸ Rev. L. 1831, ch. 21, sec. 10. Rev. Stat. 1838, ch. 22, sec. 10.

⁹ Rev. L. 1824, ch. 86, secs. 19-23, 34, 39. Rev. L. 1831, ch. 81, sec. 39. Acts 1827-28, ch. 59, sec. 2.

¹⁰ Rev. L. 1824, ch. 86, secs. 24, 25, 34, 39.

¹¹ Acts 1841-42 (general), ch. 4, sec. 13.

XXVII. TRUSTEES OF PUBLIC SEMINARY (1830-53)

LEGAL STATUS

From 1830 until 1833 Tippecanoe County had one trustee of the county seminary. From 1833 until 1844 there were three trustees, and from 1844 until 1853 there were six trustees. These trustees were appointed by the board of commissioners for 1-year terms before 1833 and for 3-year terms thereafter.¹ Bonds in varying amounts were posted by the trustees.²

FUNCTIONS AND RECORDS

The seminary trustees had custody of all seminary funds; made loans therefrom; charged interest at a rate not less than 6 percent per annum; prosecuted suits to recover money loaned; and distributed funds as ordered by the judge of the circuit court; erected buildings for seminary purposes on sites purchased therefor; employed teachers for the county seminary; fixed the teachers' salaries; determined the courses of instruction; disbursed tuition fees and such part of the principal and interest of the seminary fund as the board of commissioners designated and set apart for their use; kept a record showing all funds received and disbursed, all loans made, and payments on such loans; and reported annually to the Speaker of the House of Representatives and to the board of commissioners.³

In 1853 the seminary fund, together with the surplus revenue, saline, bank tax, and all other funds set aside for common school purposes, was made a part of the common school fund under control of the county auditor, and the operation of schools was transferred to a township board headed by the township trustee.⁴

¹ Acts 1817-18 (general), ch. 72, sec. 1. Rev. L. 1824, ch. 22, secs. 1, 2. Rev. L. 1831, ch. 90, secs. 1, 11, 12, 25. Acts 1832-33, ch. 46, sec. 1. Rev. Stat. 1838, ch. 21, sec. 25; ch. 98, secs. 1, 11. Rev. Stat. 1843, ch. 14, sec. 31. Commissioners' Record, B:188; C:335.

² Acts 1817-18 (general), ch. 72, sec. 1. Rev. L. 1824, ch. 22, sec. 2. Rev. L. 1831, ch. 90, sec. 2. Rev. Stat. 1838, ch. 21, sec. 25; ch. 98, sec. 12.

³ Acts 1817-18 (general), ch. 72, sec. 2. Acts 1821-22, ch. 65, sec. 1. Rev. L. 1824, ch. 22, secs. 2, 4, 10, 16. Rev. L. 1831, ch. 90, secs. 7-10, 16. Rev. Stat. 1838, ch. 98, secs. 7, 8, 16, 20, 23. Acts 1841-42 (general), ch. 121, sec. 2. Rev. Stat. 1843, ch. 14, secs. 27, 28, 30, 34, 36. Commissioners' Record, D:375, 376. Fassett A. Cotton, *Education in Indiana* (1934), pp. 9, 10, 15.

⁴ Const. 1851, art. 8, sec. 2. 1 Rev. Stat. 1852, ch. 98, secs. 1, 4, 34.

XXVIII. COUNTY SCHOOL COMMISSIONER (1829-49)

LEGAL STATUS

From 1829 until 1849 Tippecanoe County had a county school commissioner elected by the voters of the county for a 3-year term.¹ He posted bond in the amount of \$10,000 (\$20,000 before 1831).² The law provided that any vacancy should be filled through appointment by the board of commissioners.³

FUNCTIONS AND RECORDS

The school commissioner was a fiscal agent for the school funds. He sold school lands at public sale after publishing and posting notice thereof; sold school lands at private sale, at the minimum price fixed by the trustees of such section, after such lands had been offered at public sale and remained unsold; issued certificates and deeds to the purchasers; recorded the sales of such lands in a book provided for that purpose; and delivered a true copy of the sale certificate to the recorder for recording.⁴

The commissioner received all money accruing from the sales of school lands; loaned out the school funds on first mortgages on real estate; charged interest at the rate of 6 percent per annum; required the borrowers to pay certain expenses in connection with making the loans; could deposit in loan offices the moneys arising from the sale of school lands; could sue to recover school fund loans; filed reports with the board of commissioners specifying how such money was received, to whom loaned, the security taken, and the balance due on any unpaid loan; and delivered to the auditor

¹ Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 3. Acts 1836-37 (general), ch. 2(2), sec. 1. Rev. Stat. 1838, ch. 94(2), sec. 1. Rev. Stat. 1843, ch. 4, secs. 2, 20.

² Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, sec. 6. Acts 1832-33, ch. 70, sec. 5. Acts 1836-37 (general), ch. 2(2), sec. 3. Rev. Stat. 1838, ch. 94(2), sec. 3. Rev. Stat. 1843, ch. 4, sec. 162.

³ Acts 1828-29, ch. 84, sec. 8. Rev. L. 1831, ch. 86, secs. 6, 33. Acts 1832-33, ch. 70, secs. 4, 9. Acts 1836-37 (general), ch. 2(2), secs. 2, 7. Rev. Stat. 1838, ch. 94(2), secs. 2, 7. Rev. Stat. 1843, ch. 4, sec. 160.

⁴ Acts 1828-29, ch. 84, secs. 10, 13; ch. 93, sec. 2. Rev. L. 1831, ch. 86, secs. 7, 13, 34. Acts 1832-33, ch. 70, secs. 43, 51, 55-58, 64, 67, 104. Acts 1836-37 (general), ch. 2(8), secs. 13-16, 20, 23; ch. 2(11), sec. 5. Rev. Stat. 1838, ch. 94(8), secs. 13-16, 20, 23; ch. 94(11), sec. 5. Rev. Stat. 1843, ch. 13, secs. 177, 185, 186, 195.

of state a statement of all money paid into the state treasury.⁵

Before 1838 when a school section was divided by a county line, it was in charge of the commissioner of the county in which the greater part of such section was situated. After 1838 the township trustee could grant control of such section to the commissioner of any county in which the divided school section was situated.⁶

He kept separate accounts of principal and interest of funds belonging to each Congressional township; kept a record of his proceedings, subject to the inspection and examination of the board of commissioners; and rendered to the board of commissioners an annual report of all money received and disbursed.⁷

In 1849 the general assembly abolished the office of school commissioner and transferred the duties thereof to the county auditor.⁸

XXIX. COMMISSIONER OF THREE PERCENT FUND (1833-43)

LEGAL STATUS

From 1833 until 1843 Tippecanoe County had a commissioner of the 3 percent fund, appointed for an indefinite term by the board of commissioners.¹ He posted bond, approved by the board of commissioners, in the amount of \$1,000 before 1837 and in the amount of \$4,000 after 1837.²

⁵ Acts 1828-29, ch. 84, secs. 8, 15, 19; ch. 93, sec. 2. Rev. L. 1831, ch. 86, secs. 6, 19, 22, 24, 26. Acts 1832-33, ch. 70, secs. 8, 84, 86, 91, 92, 100, 115, 116. Acts 1836-37 (general), ch. 2(9), sec. 1; ch. 2(10), secs. 12, 15; ch. 2(11), sec. 11. Rev. Stat. 1838, ch. 94(9), sec. 1; ch. 94(10), secs. 12, 15; ch. 94(11), sec. 11. Rev. Stat. 1843, ch. 13, sec. 109.

⁶ Acts 1828-29, ch. 84, sec. 13. Acts 1836-37 (general), ch. 2(2), secs. 8, 9. Rev. Stat. 1838, ch. 94 (2), secs. 8, 9.

⁷ Acts 1828-29, ch. 84, sec. 14. Rev. L. 1831, ch. 86, secs. 15, 52. Acts 1832-33, ch. 70, sec. 73. Acts 1836-37 (general), ch. 2 (2), secs. 11, 13, 15. Rev. Stat. 1838, ch. 94 (2), secs. 11, 13, 15.

⁸ Acts 1848-49 (general), ch. 116, sec. 4.

¹ Acts 1832-33, ch. 58, secs. 2, 5, 7. Acts 1836-37 (general), ch. 35, secs. 2, 3. Rev. Stat. 1838, ch. 107 (first act), secs. 2, 3. Rev. Stat. 1843, ch. 7, sec. 32; ch. 13, sec. 121. Commissioners' Record D:375.

² Acts 1832-33, ch. 58, secs. 3, 11. Acts 1836-37 (general), ch. 35, sec. 2. Rev. Stat. 1838, ch. 107 (first act), sec. 2.

FUNCTIONS AND RECORDS

By virtue of the compact between the United States and Indiana in 1816, the latter was to receive 3 percent of the net receipts of all public lands sold within its borders, to be used for the construction of public roads and canals within the state under the direction of the state legislature.³

The 3 percent fund was apportioned, from time to time, by the legislature to the various counties in the state;⁴ and it was the duty of the commissioner of each county to superintend the expenditure of the money appropriated to his county for the construction of roads and bridges.⁵

The commissioner was required to keep an account of his expenditures and improvements, render a detailed statement of receipts and expenditures, and make an annual report, on the conditions of the fund, to the board of commissioners.⁶

In 1843 the general assembly abolished the office of the commissioner of the 3 percent fund and transferred the duties of this office to the auditor and treasurer.⁷

XXX. SURPLUS REVENUE AGENT (1837-43)

LEGAL STATUS

From 1837 until 1843 Tippecanoe County had a surplus revenue agent who was appointed annually by the state legislature. He was required to be a qualified voter of the state at the time of his appointment. He posted a bond for double the amount of money to be entrusted to his care, which was approved by the board of commissioners and filed with the clerk of the circuit court.¹ The law provided that any

³ 3 U. S. Stat., 290 (law of 1816), 424 (law of 1818). James Edward Hagerty, "Early Financial History of Indiana," *Indiana History Bulletin* (1937), 14:268.

⁴ Acts 1832-33, ch. 58, secs. 1, 4. Acts 1836-37 (general), ch. 35, sec. 1. Rev. Stat. 1838, ch. 107 (first act), sec. 1. Rev. Stat. 1843, ch. 13, sec. 121.

⁵ Acts 1832-33, ch. 58, sec. 2. Acts 1836-37 (general), ch. 35, sec. 1; ch. 63, sec. 1. Rev. Stat. 1838, ch. 107 (first act), sec. 1.

⁶ Acts 1832-33, ch. 58, sec. 7. Acts 1836-37 (general), ch. 55, sec. 1. Rev. Stat. 1838, ch. 107 (third act), secs. 1, 3.

⁷ Rev. Stat. 1843, ch. 13, secs. 121-127; ch. 59.

¹ Acts 1836-37 (general), ch. 1, secs. 4, 25. Rev. Stat. 1838, ch. 89 (first act), sec. 4; ch. 89 (second act). See footnote 16 herein.

vacancy in the office should be filled through appointment by the board of commissioners.²

FUNCTIONS AND RECORDS

Under an act of Congress of June 23, 1836, surplus funds in the Federal Treasury were distributed as noninterest-bearing loans to the several states in proportion to their respective representation in Congress. The state treasurer then sent a portion of this fund to each of the various counties for lending to citizens thereof with interest at 8 percent per annum. The interest was devoted to local school operation.³

The surplus revenue agent had custody of the surplus revenue funds aforesaid;⁴ made loans from such funds to citizens residing in the county; charged interest on such loans at the rate of 8 percent per annum; published or posted notices from time to time stating what funds were available for lending;⁵ valued all real property offered as security for such loans; ascertained that each loan was for an amount not exceeding 50 percent of the determined valuation;⁶ satisfied himself that the title to the property was regularly and legally derived from the Federal Government or the State of Indiana and was unincumbered;⁷ caused all mortgages to be recorded in the recorder's office;⁸ made loans on personal security of two or more freeholders of undoubted responsibility;⁹ made no loans for a term exceeding 3 years nor in an amount exceeding \$400 to one person;¹⁰ collected interest annually in advance and paid the same to the county school commissioner for distribution to the several townships;¹¹ and foreclosed mortgages when necessary to collect loans.¹²

² Acts 1836-37 (general), ch. 1, secs. 18, 19. Rev. Stat. 1838, ch. 89 (first act), secs. 18, 19.

³ U. S. Stat. 5:52 (law of 1836). Acts 1836-37 (general), chs. 1, 51.

⁴ Acts 1836-37 (general), ch. 89, secs. 1-3, 6. Rev. Stat. 1838, ch. 89 (first act), secs. 1-

3, 6.

⁵ *Ibid.* (both acts), sec. 7.

⁶ *Ibid.* (both acts), secs. 8, 9.

⁷ *Ibid.* (both acts), sec. 8.

⁸ *Ibid.* (both acts), sec. 15.

⁹ *Ibid.* (both acts), sec. 9.

¹⁰ *Ibid.* (both acts), secs. 10, 11.

¹¹ *Ibid.* (both acts), secs. 9, 13.

¹² *Ibid.* (both acts), sec. 16.

All filing fees and other expense of making the loans were paid by the borrower.¹³

On forms furnished by the state treasurer, the agent kept a register of the names, dates, and amounts of all mortgages taken by him, showing all payments of interest and principal thereon.¹⁴ He made quarterly reports to the state treasurer and the clerk of the circuit court, showing all transactions during the preceding quarter.¹⁵

In 1843 the general assembly abolished this office and transferred the duties thereof to the county auditor.¹⁶

XXXI. COUNTY AGENT (1826-52)

LEGAL STATUS

From 1826 to 1852 Tippecanoe County had a county agent, who was appointed by the board of commissioners. He had no definite term of office before 1843. From 1843 until 1852 his term of office was 3 years. He was required to post a bond subject to approval of the appointing authority.¹ No county commissioner, auditor, treasurer, or clerk of the circuit court could serve as county agent.²

FUNCTIONS AND RECORDS

The county agent performed various administrative duties delegated to him by the board of commissioners and was directly responsible to such board.³ He received conveyances of land given or sold for the use of the county, laid off such land into town lots, sold the lots, made conveyances, collected the money therefrom, and paid the same into the county treasury.⁴

¹³ *Ibid.* (both acts), sec. 15.

¹⁴ *Ibid.* (both acts), sec. 24.

¹⁵ *Ibid.* Rev. Stat. 1838, ch. 89 (second act), sec. 7.

¹⁶ Rev. Stat. 1843, ch. 13, sec. 95; ch. 59, sec. 4.

¹ Acts 1817-18 (Spec. Sess.), ch. 1, sec. 2. Rev. L. 1824, ch. 93, secs. 1, 4. Rev. L. 1831, ch. 85, secs. 1, 4. Rev. Stat. 1843, ch. 4, sec. 48. Commissioners' Record, A:3.

² Acts 1817-18 (Spec. Sess.), ch. 2, sec. 4. Rev. L. 1824, ch. 93, sec. 11. Rev. Stat. 1838, ch. 93, sec. 11. Rev. Stat. 1843, ch. 18, sec. 20.

³ See footnotes 4 and 7 herein.

⁴ Acts 1817-18 (Spec. Sess.), ch. 1, sec. 2. Rev. L. 1824, ch. 93, sec. 4. Rev. Stat. 1831, ch. 85, sec. 4. Rev. Stat. 1838, ch. 93, secs. 1, 4. Rev. Stat. 1843, ch. 19, sec. 12.

The county library fund received 10 percent of all receipts from such sales.⁵

From the remainder of said receipts the essential expenses and the price of purchased land were paid and the balance used for erection of necessary public buildings. Any remaining funds were applied as any other money in the treasury.⁶

The board of commissioners imposed upon the county agent numerous duties not specified by statute. He received bids for construction and repair of county buildings; inspected materials and completed work; made reports and recommendations to the board on materials and costs of proposed construction work; employed labor; purchased certain supplies; and performed other similar duties under the direction of the board of commissioners.⁷

The county agent kept a record of sales and collections. Every 4 months, or sooner if required, he made a report and financial settlement with the board of commissioners.⁸

In 1852 the general assembly abolished this office and transferred the duties thereof to the county auditor.⁹

XXXII. AUDITOR

LEGAL STATUS

The office of auditor has existed in Tippecanoe County ever since 1841 under the mandatory requirements of an act of 1841 and the Constitution of 1851. The auditor is elected for a 4-year term by the voters of the county. Before 1851 he was elected for a 5-year term.¹ He is commissioned by the Governor of Indiana² and holds office until his successor

⁵ Const. 1816, art. 9, sec. 5. Rev. Stat. 1824, ch. 60, sec. 9. Acts 1825-26, ch. 10, sec. 6. Acts 1826-27, ch. 35, sec. 1. Rev. Stat. 1831, ch. 59, sec. 9.

⁶ See footnote 4 herein.

⁷ Commissioners' Record, C:261, 692, 332, 333, 371, 394, 608; D:83, 192.

⁸ Acts 1820-21, ch. 11, sec. 1. Rev. L. 1824, ch. 92, sec. 6. Rev. L. 1831, ch. 95, secs. 6, 7. Rev. Stat. 1838, ch. 93, sec. 8. Rev. Stat. 1843, ch. 18, sec. 17.

⁹ Acts 1851-52, ch. 2, sec. 1.

¹ Const. 1851, art. 6, sec. 2. Acts 1840-41 (general), ch. 2, sec. 1. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. Jones v. Cavins, 4 Ind. 305 (1853).

² Const 1851, art. 15, sec. 6. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

is elected and qualified.³ No person is eligible to hold the office more than 8 years in any 12-year period.⁴

The auditor must be an elector of the county at the time of his election; must have been an inhabitant thereof throughout the preceding year;⁵ must reside within the county after his election; must not hold any other lucrative office; must not practice law;⁶ must post bond in the amount of \$10,000, to be approved by the board of commissioners and filed with the clerk of the circuit court;⁷ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁸

The auditor receives a regular salary of \$3,440 per year.⁹ In addition to his regular salary he receives \$400 per year for services rendered for the city of Lafayette; and from 1907 to 1932, and in 1935 and 1936, he also received \$50 per year for acting as secretary of the board of finance of Tippecanoe County; and from 1919 until 1933 he also received \$5 per day for each day actually served as a member of the county board of review.¹⁰ He is not now entitled to retain, as compensation for himself, any fees which he collects.¹¹

For sufficient legal grounds the auditor may be removed from office by the circuit court, after trial by jury on an

³ Const. 1851, art. 15, sec. 3. 1 Rev. Stat. 1852; Burns 49-3001; Baldwin 5415. *Griebel v. State ex rel. Niezer*, 111 Ind. 369, 12 N. E. 700 (1887).

⁴ Const. 1851, art. 2, sec. 11; art. 6, sec. 2.

⁵ *Ibid.*, art. 6, sec. 4. *State ex rel. Jeffries v. Kilroy*, 86 Ind. 118 (1882).

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. 1 Rev. Stat. 1852, ch. 8, sec. 9. Acts 1881 (Spec. Sess.), ch. 37, sec. 115. Acts 1905; Burns 10-3102; Baldwin 2636. *State v. Allen*, 21 Ind. 516 (1863); *Wells v. State ex rel. Peden*, 175 Ind. 380, 94 N. E. 321 (1911).

⁷ Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068. Acts 1889; Burns 49-3003; Baldwin 5417.

⁸ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁹ Acts 1871, ch. 17, sec. 28. Acts 1933; Burns 49-1004; Baldwin 7534.

¹⁰ Acts 1899, ch. 154, sec. 50. Acts 1907, ch. 222, sec. 7 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1935, ch. 70, sec. 7 (repealed by Acts 1937, ch. 3, sec. 42). Acts 1933; Burns 48-1227, 49-1001, 49-1004; Baldwin 11408, 7531, 7534. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201, 64-1204; Baldwin 15700, 15703. *Board of County Comrs. v. Johnson*, 127 Ind. 238, 26 N. E. 821 (1891); *Tucker v. State ex rel. Board of County Comrs.*, 163 Ind. 403, 71 N. E. 140 (1904); *Board of County Comrs. v. Crowe*, 214 Ind. 437, 446 (two cases), 14 N. E. (2d) 903, 907, 15 N. E. (2d) 1016 (1938). *Opinions of the Attorney General of Indiana, 1934*, p. 313; 1936, p. 130.

¹¹ Acts 1933; Burns 49-1005; Baldwin 7535. *Workman v. State ex rel. Board of County Comrs.*, 165 Ind. 42, 73 N. E. 917 (1905).

accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹² If the auditor is convicted of a felony the judgment of conviction must declare the office vacant.¹³

Any vacancy in the office of auditor is filled through appointment by the board of commissioners. At the next biennial general election (held on the 1st Tuesday after the 1st Monday in November in the even-numbered years), an auditor is elected for the remainder of the term in which the vacancy occurred. The person appointed or elected to fill a vacancy must take oath and post bond, as was required of his predecessor; and he holds office until his successor is elected and qualified.¹⁴

The auditor may appoint deputies and assistants under authority from the board of commissioners. One deputy may be appointed without such authorization. The county council fixes their salaries, which must be not less than \$75 nor more than \$200 per month.¹⁵ The auditor may require any deputy to give bond.¹⁶ The deputies must take the oath required of the auditor, may perform all the official duties of the auditor, and are subject to the same regulations and penalties.¹⁷ The auditor may remove such deputies and assistants at any time and is responsible for their official acts.¹⁸

Most of the early duties of the auditor were transferred to him from the clerk of the circuit court,¹⁹ and included the clerk's previous duties as clerk of the board doing county

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *Douglass v. State ex rel. Wright*, 31 Ind. 429 (1869). *Gemmer v. State ex rel. Stephens*, 163 Ind. 150, 71 N. E. 748 (1904). *Opinions of the Attorney General of Indiana, 1936*, p. 9. Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on July 11, 1939, by W. Davis Hamilton.

¹⁵ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532. *Opinions of the Attorney General of Indiana, 1934*, p. 256; 1937, p. 324.

¹⁶ 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108.

¹⁷ 1 Rev. Stat. 1852; Burns 49-502; Baldwin 13109.

¹⁸ 1 Rev. Stat. 1852; Burns 49-503; Baldwin 13110. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-1002; Baldwin, 1937 suppl., 7532.

¹⁹ Acts 1840-41 (general), ch. 2, sec. 54. *Jones v. Cavins*, 4 Ind. 305 (1853).

business,²⁰ as member of the boards performing duties similar to those of the present county board of review,²¹ and duties concerning elections,²² taxation, finance, county business,²³ and selection of petit jurors and grand jurors.²⁴

From 1826 until 1852 Tippecanoe County had a county agent whose duties (stated in a separate essay) were transferred to the auditor in 1852.²⁵

FUNCTIONS AND RECORDS

The auditor is the financial agent of the county and the routine administration of county affairs centers in his office, through which all financial transactions are conducted, of which he keeps records.

He keeps a fee and cash book,²⁶ a monthly balance record, and a record of receipts, appropriations, and disbursements.²⁷ He keeps separate accounts for each specific item of appropriation by the county council²⁸ and an account current, with the treasurer, of county funds.²⁹

²⁰ Acts 1816-17, ch. 15, sec. 6. Rev. L. 1824, ch. 15, sec. 5; ch. 16, sec. 6. Rev. L. 1831, ch. 20, sec. 6. Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53.

²¹ Acts 1817-18 (general), ch. 42, sec. 12. Rev. L. 1824, ch. 86, sec. 7. Acts 1825, ch. 47, sec. 3. Rev. L. 1831, ch. 81, secs. 5, 7, 8. Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18.

²² Acts 1816-17, ch. 9, secs. 12-14, 16, 19; ch. 14, sec. 4. Rev. Stat. 1838, ch. 32, secs. 18, 19. Acts 1834-35 (general), ch. 43, sec. 1. Acts 1841-42 (general), ch. 45, sec. 8. Rev. Stat. 1843, ch. 5, sec. 103. Acts 1875, ch. 7, sec. 1. Acts 1881 (Spec. Sess.), ch. 47, sec. 13. Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5; ch. 150, secs. 5, 13 (both sections repealed by Acts 1913, ch. 185, sec. 25).

²³ Acts 1815, ch. 5, secs. 5, 13, 17; ch. 10, secs. 1-3. Rev. L. 1824, ch. 23, sec. 6; ch. 86, secs. 7, 10, 11, 17, 19, 23, 36, 41. Acts 1825, ch. 49, sec. 2. Acts 1825-26, ch. 58, sec. 2. Acts 1829-30, ch. 9, sec. 1. Acts 1831-32, ch. 174, sec. 1. Acts 1834-35 (general), ch. 10, sec. 5; ch. 11, secs. 5, 18. Rev. Stat. 1838, ch. 91, sec. 26; ch. 95, sec. 1. Acts 1840-41 (general), ch. 2, sec. 54.

²⁴ Acts 1841-42 (general), ch. 45, sec. 6. 2 Rev. Stat. 1852, pt. 1, ch. 9, sec. 1, p. 24. Acts 1853, ch. 59, sec. 1. These duties were discontinued in 1881. Acts 1881 (Spec. Sess.), 1899, 1913; Burns 4-3301, 4-3304, 4-3306; Baldwin 1266, 1267, 1270.

²⁵ See the essay entitled "County Agent (1826-52)."

²⁶ Acts 1840-41 (general), ch. 2, sec. 27. Acts 1871, ch. 17, sec. 38. Acts 1891, ch. 194, sec. 124. Acts 1895; Burns 49-1401; Baldwin 7576.

²⁷ Required by order of state board of accounts. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

²⁸ Acts 1899; Burns 26-523; Baldwin 5387.

²⁹ Acts 1840-41 (general), ch. 2, sec. 10. 1 Rev. Stat. 1852; Burns 49-3010; Baldwin 5423. Wells v. State ex rel. Board of County Comrs., 22 Ind. 241 (1864).

The clerk of the circuit court, treasurer, sheriff, and recorder must make reports of fees to the auditor quarterly and at the expiration of their terms of office. The treasurer also makes a monthly report to the auditor showing the total amount of cash payments received by the treasurer during the month and the respective accounts to which such payments are applied. The clerk of the circuit court annually delivers to the auditor a list of all fines and jury fees collected during the preceding year, and also a list of all fees in his hands which have remained unclaimed for 2 years, and the auditor enters such lists in his register of receipts and issues a quietus for the items of such lists which have been paid over to the treasurer.³⁰

Funds in the county treasury are disbursed on warrants drawn by the auditor on the county treasurer.³¹ The auditor publishes a call for redemption of interest-bearing warrants, when money is available therefor.³² Treasurer's receipts for payments other than for taxes are deposited by the payers with the auditor, who issues quietuses therefor.³³ All redeemed or canceled warrants are deposited quarterly by the treasurer with the auditor, for permanent filing.³⁴

When the auditor draws a warrant he charges it against the appropriation and particular fund under which it was drawn. Apportionment is made if more than one fund or appropriation is involved.³⁵ Records of the warrants are kept in the manner prescribed by the state board of accounts. Formerly the number, date, amount, name of payee, and purpose

³⁰ Acts 1841-42 (general), ch. 45, sec. 3. Acts 1871, ch. 17, secs. 20, 23, 27, 31. Acts 1895, 1903, 1913; Burns 49-1402; Baldwin 7577. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. Acts 1919; Burns 64-2101; Baldwin 15802.

Such lists were entered in the "order book of the board of commissioners" (commonly known as the "commissioners' record") before the state board of accounts provided otherwise in 1909. Information obtained from E. P. Brennan, state examiner, on March 7, 1940, by W. Davis Hamilton.

³¹ 1 Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1899, 1935; Burns, 1940 suppl., 26-522; Baldwin, 1935 suppl., 5386. Acts 1889; Burns 49-3007; Baldwin 5420. 1 Rev. Stat. 1852; Burns 49-3103, 49-3111; Baldwin 5550, 5558. Acts 1937; Burns, 1940 suppl., 61-627; Baldwin, 1937 suppl., 13844-48.

³² Acts 1889; Burns 49-3007, 49-3008; Baldwin 5420, 5421.

³³ 1 Rev. Stat. 1843, ch. 7, sec. 77. 2 Rev. Stat. 1852, Acts 1891; Burns 49-2710; Baldwin 1437. 1 Rev. Stat. 1852; Burns 49-3010, 49-3104; Baldwin 5423, 5551.

³⁴ 1 Rev. Stat. 1843, ch. 7, secs. 79, 85. 1 Rev. Stat. 1852; Burns 49-3114; Baldwin 5561. Information obtained from E. P. Brennan, state examiner, on June 14, 1939, by W. Davis Hamilton.

³⁵ Acts 1899; Burns 26-544; Baldwin 5409.

of the warrant were entered in a book as prescribed by statute.³⁶

Before issuing a warrant or *quietus* the auditor must examine the account to ascertain whether it is correct and in proper form; and for this purpose may require the furnishing of information, vouchers, and exhibits sufficient to satisfy himself.³⁷ The action of *mandamus* lies to compel the auditor to draw a warrant on the county treasury.³⁸

On claims allowed by courts for cost of administration of justice,³⁹ and on claims (including claims on judgments) allowed by the board of commissioners, the auditor issues his warrant.⁴⁰ But a warrant may be issued to pay a judgment, or for management of the school fund, or for expenses of insanity inquests, or for salaries or other liabilities for specific amounts fixed by law, when no claim therefor has been allowed as aforesaid.⁴¹ The auditor issues warrants for allowances, awards, or assistance granted by the county welfare department when approved by the county welfare director. Claims for administrative expenses of the welfare department must be approved by the board of commissioners.⁴² County hospital claims are paid by the auditor upon order of hospital board.⁴³ He issues warrants on the county treasurer for clothing for insane persons of the county committed to a state hospital on requisition of the superintendent thereof, when

³⁶ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, state examiner, on August 15, 1939, by W. Davis Hamilton.

³⁷ Acts 1909; Burns 60-215; Baldwin 13866.

³⁸ *Gill v. State ex rel. Board of County Comrs.*, 72 Ind. 266 (1880).

³⁹ Acts 1921, 1935; Burns, 1940 suppl., 4-3107; Baldwin, 1935 suppl., 1256. Acts 1881 (Spec. Sess.), 1903, 1913, 1927, 1933; Burns 4-3319, 4-3407; Baldwin 1277, 1286. Acts 1921, 1939; Burns, 1940 suppl., 4-3507; Baldwin, 1939 suppl., 1298-1. Acts 1893; Burns 4-3511; Baldwin 1300. Acts 1905; Burns 9-1312 to 9-1315; Baldwin 2233 to 2236. 1 Rev. Stat. 1852; Burns 9-2408; Baldwin 1306. Acts 1899; Burns 26-515, 26-527, 26-816; Baldwin 5379, 5391, 5268. Acts 1931; Burns 26-817, 26-818; Baldwin 5269, 5270. Acts 1895, 1905, 1915, 1919; Burns 49-1311; Baldwin 7570. Acts 1879 (Spec. Sess.); Burns 49-1432, 49-1434; Baldwin 13127, 13128. 2 Rev. Stat. 1852; Burns 49-2709, 49-2804; Baldwin 1436, 5496.

⁴⁰ Rev. Stat. 1843, ch. 7, secs. 76, 79. Acts 1897; Burns 26-809; Baldwin 5257. Acts 1911; Burns 26-813, 26-814; Baldwin 5264, 5265.

⁴¹ Acts 1897; Burns 26-809; Baldwin 5257. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

⁴² Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1124; Baldwin, 1937 suppl., 14078-24.

Opinions of the Attorney General of Indiana, 1936, p. 440.

⁴³ Acts 1917; Burns 22-3218; Baldwin 4519.

certified by the clerk of the circuit court.⁴⁴ A warrant not called for within 5 years after the allowance of the claim on which it was drawn may be canceled by the board of commissioners, if not called for after publication of notice.⁴⁵

The auditor manages the school funds held in trust by the county.⁴⁶ with the exception of making loans. The county school fund board (composed of the auditor, clerk of the circuit court, and another person appointed by the judge of the circuit court) makes all the loans from those funds.⁴⁷ Whenever a Congressional township is divided by a county line, the auditor makes all adjustments of land, accounts, and distribution of pupils.⁴⁸ The auditor conducts the sale of school lands⁴⁹ including those previously sold and forfeited by the purchasers thereof).⁵⁰ The auditor issues a quitclaim deed whenever there is a defect in the title of the owner of land in a school section resulting from destruction of public records.⁵¹ He supervises unsold saline lands.⁵²

Funds held by the county in trust for cemetery purposes are managed and loaned by the auditor in the manner provided by law for school funds.⁵³

Annually the auditor reports to the state examiner the financial condition of the county and the school funds charged to it.⁵⁴

Formerly the board of commissioners met in the auditor's office and audited the warrants of all township trustees in the county. These warrants and the board's decision thereon were registered by the auditor in a book kept for that purpose.⁵⁵

⁴⁴ Acts 1927, 1933; Burns 22-1215, 22-1216; Baldwin 4307, 4308. *Morris v. State ex rel. Brown*, 96 Ind. 597 (1884).

⁴⁵ Acts 1879 (Spec. Sess.); Burns 26-815; Baldwin 5273.

⁴⁶ Acts 1855, ch. 86, sec. 155. Acts 1861, ch. 41, secs. 122, 160. Acts 1865, 1907; Burns 28-101, 28-102, 28-105; Baldwin 6499, 6500, 6511.

⁴⁷ Rev. Stat. 1843, ch. 13, sec. 45. Acts 1865, 1935; Burns, 1940 suppl., 28-209; Baldwin, 1935 suppl., 6558. See the essay entitled "County School Fund Board."

⁴⁸ Acts 1877 (Spec. Sess.); Burns 28-111 to 28-114; Baldwin 6518 to 6520, 6510.

⁴⁹ Acts 1865, 1875; Burns 28-122 to 28-124; Baldwin 6553, 6528, 6529.

⁵⁰ Acts 1851-52, ch. 2, sec. 2. Acts 1863, 1865; Burns 28-125, 28-126, 28-129 to 28-133, 28-135 to 28-137, 28-140 to 28-143, 28-145, 23-146; Baldwin 6530, 6531, 6538, 6539, 6534, 6535, 6540, 6542 to 6544, 6547 to 6550, 6552, 6554.

⁵¹ Acts 1915; Burns 28-239; Baldwin 5435.

⁵² 1 Rev. Stat. 1852; Burns 62-201; Baldwin 15255.

⁵³ Acts 1915; Burns 21-214, 21-217; Baldwin 4668, 4674.

⁵⁴ Acts 1909; Burns 60-204; Baldwin 13857.

⁵⁵ Acts 1897, ch. 144, secs. 1, 2.

The auditor keeps an account with each township showing expenditures and tax levies for poor relief, keeps reports of public welfare officials, and keeps records of county welfare funds.⁵⁶

A copy of the annual report (accompanied by vouchers) of each township trustee to the township advisory board is filed in the auditor's office.⁵⁷ Annually the township trustees report to the auditor the amount of claims in the several townships for livestock, fowls, or game destroyed or damaged by dogs; and the auditor annually reports to the auditor of state the amount of all such claims remaining unpaid for lack of funds.⁵⁸ Quarterly each county official reports to the auditor all humane fund fees collected by him.⁵⁹

The auditor compiles budget estimates made by the county officers and boards; keeps them on file for 1 month subject to inspection by any taxpayer; and submits them with his recommendations to the county council at its annual meeting.⁶⁰

In each township having a population not exceeding 5,000 (all townships except Fairfield and Wabash), the office of township assessor has been abolished, and the duties of such office are performed by the township trustee. Reference herein to the township assessor includes the township trustee performing the duties prescribed by statutes for township assessors.⁶¹

The auditor certifies to the city officials the number of taxable polls therein,⁶² and adds omitted polls to the tax duplicate.⁶³

The auditor takes a very important part in the administration of the property tax laws. Annually the township

⁵⁶ Acts 1895, ch. 120, sec. 2. Acts 1897, ch. 151, sec. 1 (repealed by Acts 1901, ch. 147, sec. 39). Acts 1901, ch. 147, secs. 11, 12, 19, 20 (all repealed by Acts 1935, ch. 116, sec. 38). Acts 1907, ch. 161, sec. 1 (repealed by Acts 1935, ch. 116, sec. 38). Acts 1935; Burns, 1940 suppl., 52-158; Baldwin, 1935 suppl., 13320-15. Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1402; Baldwin, 1937 suppl., 14078-114.

⁵⁷ Acts 1899, 1901; Burns 65-318; Baldwin 16075.

⁵⁸ Acts 1927, ch. 176, sec. 10. Acts 1929, ch. 58, sec. 1. Acts 1937; Burns, 1940 suppl., 16-327; Baldwin, 1937 suppl., 3211-11.

⁵⁹ Acts 1881; Burns 5-1803; Baldwin 1874. Acts 1913; Burns 9-2502, 9-2503; Baldwin 3803, 3804. Acts 1909; Burns 60-214; Baldwin 13865.

⁶⁰ Acts 1899; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331, 64-1339; Baldwin, 1935 suppl., 15735, 15737-1.

⁶¹ Acts 1933; Burns 64-1031; Baldwin 15664.

⁶² Acts 1905, 1911; Burns 48-6708; Baldwin 11516.

⁶³ Acts 1919; Burns 64-2102; Baldwin 15803.

assessors file with the auditor all returns of real and personal property made by them, together with all assessment lists, schedules, statements, maps, and other books and papers used by them in making such returns; and the assessor obtains the same from the auditor to perform the county assessor's duties, but returns them to the auditor for permanent filing.⁶⁴ If a taxpayer refuses to make a personal property tax return or an oath required by law in connection with the assessment of personal property, the auditor adds 50 percent to the personal property valuation returned by the assessor.⁶⁵ If a landowner fails to furnish a list of lands and improvements within 5 days after a township assessor has so requested, the auditor must add 25 percent to the valuation of any lands or improvements listed by the assessor and which are not assessed the previous year.⁶⁶ The auditor assesses omitted property, after giving notice to the taxpayer, but cannot increase property assessment valuations made by assessors even if purposely undervalued.⁶⁷ For the purpose of the listing and assessment of omitted property, the auditor may, on filing proper affidavit in the circuit court and obtaining a writ directed to the sheriff, inspect the books and papers of taxpayers.⁶⁸ He receives assessors' reports concerning efforts to conceal property from taxation

⁶⁴ Rev. Stat. 1843, ch. 12, secs. 28, 41. Acts 1850-51 (general), ch. 5, secs. 12, 19; ch. 9, secs. 5, 8. Acts 1858 (Spec. Sess.), ch. 2, sec. 20. Acts 1891, ch. 99, secs. 101, 105. Acts 1919; Burns 64-1023, 64-1029, 64-1102; Baldwin 15689, 15694, 15698. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

⁶⁵ Acts 1919; Burns 64-610; Baldwin 15578.

⁶⁶ Acts 1919; Burns 64-1008; Baldwin 15674.

⁶⁷ Acts 1840-41 (general), ch. 1, sec. 9. Acts 1889, ch. 133, sec. 1. Acts 1919; Burns 64-1402; Baldwin 15739. *Scott v. Knightstown*, 84 Ind. 108 (1882); *Lang v. Clapp*, 103 Ind. 17, 2 N. E. 197 (1885); *Vandercook v. Williams*, 106 Ind. 345, 1 N. E. 619 (1885); *Williams v. Segur*, 106 Ind. 368, 1 N. E. 707 (1885); *McKeen v. Haskell*, 103 Ind. 97, 8 N. E. 901 (1886); *Board of County Comrs. v. Senn*, 117 Ind. 410, 20 N. E. 276 (1889); *Florer v. Sherwood*, 128 Ind. 495, 28 N. E. 71 (1891); *Hennel v. Board of County Comrs.*, 132 Ind. 32, 31 N. E. 462 (1892); *Florer v. Sheridan*, 137 Ind. 28, 36 N. E. 365 (1894); *Cummings v. Stark*, 138 Ind. 94, 34 N. E. 444 (1894); *Thiebaud v. Tait*, 133 Ind. 238, 36 N. E. 525 (1894); *Eaton v. Union County Nat. Bank*, 141 Ind. 136, 40 N. E. 668 (1895); *Buck v. Miller*, 147 Ind. 586, 45 N. E. 647 (1896); *Miller v. Vollmer*, 153 Ind. 26, 53 N. E. 949 (1899); *Crowder v. Riggs*, 153 Ind. 153, 53 N. E. 1019 (1899); *Parkison v. Thompson*, 164 Ind. 609, 73 N. E. 109 (1905); *Darnell v. State*, 174 Ind. 143, 90 N. E. 769 (1910).

⁶⁸ Acts 1891, ch. 99, sec. 34. Acts 1919; Burns 64-1026; Baldwin 15549.

and transmits the same to the board of review.⁶⁹ Acting for the county board of review, the auditor gives notice to taxpayers in order that the board may assess omitted property or raise valuations.⁷⁰ Appeals from the county board of review to the state board of tax commissioners are usually heard in the office of the auditor.⁷¹ Formerly the auditor annually notified all township assessors to meet in the auditor's office to agree on a uniform rate of assessment.⁷² Formerly railroad companies annually filed with the auditor, for taxation purposes, complete inventories of assets.⁷³

The auditor annually makes out, and delivers to the township assessors, lists of lands entered on the tax duplicates of the previous year, with notations thereon showing all transfers made subsequent to the duplicate and all new entries of land not previously entered for taxation. The auditor makes plats of the several townships showing ownership, improvements, and assessed valuation of the parcels therein. The township assessors write on such plats the ownership and value of each plot of ground and the improvements thereon, and the plat is kept up with all current transactions and transfers.⁷⁴ The auditor keeps a record of all lands classified by the state forester as "forest plantations" or "native forest lands" to obtain special rules or rates for tax assessments.⁷⁵

For taxation purposes, the auditor keeps a transfer book, arranged by townships, cities, and towns, showing description of all lands conveyed by deed or partition, names of parties, and post-office addresses of grantees. No such conveyance can be recorded by the recorder until after the instrument has been presented to the auditor and he has made an endorsement thereon that the land has been duly entered for taxation or is not taxable.⁷⁶ On the death of a land-

⁶⁹ *Opinions of the Attorney General of Indiana, 1892, p. 70.*

⁷⁰ Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

⁷¹ Acts 1919, 1935; Burns, 1940 suppl., 64-1321; Baldwin, 1935 suppl., 15725. State board of tax commissioners, tax rule 6.

⁷² Acts 1889, ch. 108, sec. 1 (repealed by Acts 1891, ch. 99, sec. 259).

⁷³ Acts 1891, ch. 99, sec. 83.

⁷⁴ Acts 1840-41 (general), ch. 1, sec. 4; ch. 2, sec. 12. Acts 1841-42, ch. 60, sec. 4. Rev. Stat. 1843, ch. 12, sec. 27. Acts 1858 (Spec. Sess.), ch. 2, sec. 5. Acts 1891, ch. 99, sec. 93. Acts 1919, 1937; Burns, 1940 suppl., 64-1007; Baldwin, 1937 suppl., 15672.

⁷⁵ Acts 1899, ch. 256, sec. 9. Acts 1921; Burns 32-304, 32-306; Baldwin 15517-4, 15517-6.

⁷⁶ Rev. Stat. 1843, ch. 12, secs. 23, 25, 26. Acts 1881 (Spec. Sess.), ch. 96, sec. 154. 1 Rev. Stat. 1852; Burns 49-3214; Baldwin 5478. Acts 1919; Burns 64-1409; Baldwin 15746.

owner, the heir or devisee may have the auditor make an entry on the tax duplicate to show the change of ownership.⁷⁷ The auditor corrects on the tax books any errors as to description of property and names of owners.⁷⁸

Forms and instructions for taxation purposes are prescribed by the state board of tax commissioners and delivered to the auditor.⁷⁹ The auditor furnishes the township assessors with all necessary books and blanks for their use in making assessment of real and personal property.⁸⁰ Assessments of omitted real estate by township assessors are filed with the auditor.⁸¹ The auditor makes assessment of any newly platted land additions to any city or town.⁸²

The auditor certifies as to the required number of signers of petitions filed by groups of taxpayers with the state board of tax commissioners to obtain a reassessment of real estate.⁸³

Sworn statements and applications to obtain tax exemptions authorized by law (including mortgage deductions) are filed with the auditor, who refers them to the county board of review for approval.⁸⁴

Annually the auditor apportions the final assessment of real and personal property among the several taxing units of the county and certifies the same to the county, townships,

⁷⁷ Acts 1921; Burns 64-519; Baldwin 14777.

⁷⁸ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019; Baldwin, 1937 suppl., 15685.

⁷⁹ Acts 1919; Burns 64-2803; Baldwin 15866. "Revised Forms," *Thirty-Ninth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana*, December 20, 21, 22, 1939 (1940), pp. 22-30, 53, 54, 102, 103, 123-139.

⁸⁰ Acts 1858 (Spec. Sess.), ch. 2, sec. 23. Acts 1891, ch. 99, secs. 53, 101. Acts 1903, ch. 29, sec. 32. Acts 1899; Burns 26-543; Baldwin 5408. Acts 1895; Burns 49-1401; Baldwin, 7576. Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434. Acts 1919; Burns 64-1007, 64-1016; Baldwin 15672, 15682.

⁸¹ Acts 1840-41 (general), ch. 2, sec. 12. Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019; Baldwin, 1937 suppl., 15685. Acts 1919; Burns 64-1025; Baldwin 15692.

⁸² Acts 1919; Burns 64-1027; Baldwin 15691.

⁸³ Acts 1919, 1925, 1927, 1935, 1937; Burns, 1940 suppl., 64-1019(a); Baldwin, 1937 suppl., 15685(a).

⁸⁴ Tax exemptions in general. Acts 1937; Burns, 1940 suppl., 64-213; Baldwin, 1937 suppl., 15518-2.

Disabled veterans. Acts 1927; Burns 64-206; Baldwin 10987.

Mortgage deductions. Acts 1899, ch. 190, secs. 2, 3. Acts 1919, 1939; Burns, 1940 suppl., 64-209 to 64-211; Baldwin, 1939 suppl., 15565 to 15567. "Mortgage Deductions," *Thirty-Eighth Annual Conference of the State Board of Tax Commissioners and County Assessors of Indiana*, January 9, 10, 11, 1939 (1939), pp. 64-74.

cities, and towns for the purpose of making tax levies based thereon.⁸⁵ After the county council, at its annual meeting, adopts a budget, establishes a tax rate, and makes tax levies for the succeeding calendar year, the auditor schedules the rates for the county and the several municipal corporations therein, verifies the figures and calculations, and reports the levies to the state board of tax commissioners.⁸⁶ The decisions of the state board of tax commissioners on an appeal from the county council's action in adopting budgets and tax levies is certified to the auditor and he certifies it to the taxing units interested therein.⁸⁷

Annually each municipal corporation of the county files with the auditor a statement of tax levies and rates for the ensuing year, fixed by such municipal corporations, and copies of the budgets on which such levies are based.⁸⁸ At the annual meeting of the county board of tax adjustment, the auditor lays before the board these budgets, tax levies, and rates.⁸⁹ If the board of tax adjustment does not complete its duties before October 2, or fails to reduce the aggregate amount of the tax levies and rates within the statutory limits, the auditor calculates and fixes the rates and certifies his action to each municipal corporation.⁹⁰ The decision of the state board of tax commissioners on an appeal from the action of the board of tax adjustment is certified to the auditor.⁹¹

The auditor certifies to the state board of tax commissioners all emergency appropriations made by the county council, together with tax levies based thereon.⁹²

After the assessments, budgets, tax rates, and tax levies have been made, the auditor makes out and delivers to the

⁸⁵ Acts 1919, 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733.

⁸⁶ Acts 1889; Burns 26-516 to 26-520; Baldwin 5380 to 5384. Acts 1920 (Spec. Sess.); Burns 64-1329; Baldwin 15733. Acts 1919; Burns 64-1330; Baldwin 15734. Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

⁸⁷ Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

⁸⁸ Acts 1933; Burns 64-302; Baldwin 15893. Acts 1937; Burns, 1940 suppl., 64-311; Baldwin, 1937 suppl., 15897-5.

⁸⁹ Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁹⁰ Acts 1937; Burns, 1940 suppl., 64-311, 64-314; Baldwin, 1937 suppl., 15897-5, 15897-8.

⁹¹ Acts 1937; Burns, 1940 suppl., 64-314; Baldwin, 1937 suppl., 15897-8.

⁹² Acts 1919, 1920 (Spec. Sess.), 1921, 1927, 1935; Burns, 1940 suppl., 64-1331; Baldwin, 1935 suppl., 15735.

treasurer a roll of taxes known and designated as the tax duplicate, and a complete tax abstract of all property listed in each township, city, and town. He keeps a copy of the abstract in his office and delivers another copy thereof to the auditor of state.⁹³ Semiannually the county auditor delivers to the county treasurer and to the treasurer of each city, town, and township in the county, a complete list of all persons reported as delinquent in the payment of taxes, as shown by the tax duplicate.⁹⁴ Formerly a separate list of delinquent taxes was delivered by the county auditor to the auditor of state, but now, and for many years last past, the only lists so delivered are those that are set forth in the tax abstract.⁹⁵

The auditor annually prepares and records in a book, provided for that purpose, a list of lands delinquent for taxes, charges the interest and penalty required by law, publishes and posts the list with a notice of tax sale, includes a copy of the notice in his record, and certifies on his record the time and manner of such publication and posting.⁹⁶ The auditor attends the treasurer's tax sales of delinquent lands, keeps a record of the sales, and issues certificates to the purchasers.⁹⁷ The auditor acts as arbiter in case of partial redemption of lands from tax sale.⁹⁸ When lands are redeemed from tax sale, he issues a certificate of redemption and keeps a record of all redemptions.⁹⁹ The auditor executes all tax deeds of land, and keeps a record

⁹³ Acts 1840-41 (general), ch. 1, secs. 12, 14; ch. 2, secs. 17, 22. Rev. Stat. 1843, ch. 12, secs. 44, 50, 51, 133. Acts 1919; Burns 64-1403, 64-1408; Baldwin 15740, 15745. Standard Oil Co. v. Bretz, 98 Ind. 231 (1884); Adams v. Davis, 109 Ind. 10, 9 N. E. 162 (1886); Smith v. Smith, 159 Ind. 368, 65 N. E. 183 (1902).

⁹⁴ Rev. Stat. 1843, ch. 12, sec. 68. Acts 1911, ch. 234, sec. 1. Acts 1919; Burns 64-1505; Baldwin 15767.

⁹⁵ Rev. Stat. 1843, ch. 12, sec. 68. Information obtained from Frank G. Thompson, auditor of state, on June 29, 1939, by W. Davis Hamilton.

⁹⁶ Acts 1840-41 (general), ch. 2, secs. 26, 28-30. Acts 1879 (Spec. Sess.), ch. 96, sec. 3. Acts 1883, ch. 76, sec. 1. Acts 1919; Burns 64-2201; Baldwin 15806. Acts 1919, 1931, 1937; Burns, 1940 suppl., 64-2202; Baldwin, 1937 suppl., 15807. Abbott v. Edgerton, 53 Ind. 196 (1876); Stropes v. Board of County Comrs., 72 Ind. 42 (1880).

⁹⁷ Acts 1840-41 (general), ch. 2, secs. 33, 34. Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. 1 Rev. Stat. 1852, ch. 6, sec. 177. Acts 1919; Burns 64-2209, 64-2210; Baldwin 15816, 15817. Gable v. Seiben, 137 Ind. 155, 36 N. E. 844 (1894).

⁹⁸ Acts 1919; Burns 64-2308; Baldwin 15826.

⁹⁹ Rev. Stat. 1843, ch. 12, secs. 97, 122, 123. Acts 1919; Burns 64-2313; Baldwin 15831.

thereof.¹⁰⁰ On authorization by the board of commissioners he issues a warrant for a refund to persons paying illegal or erroneous taxes and also to purchasers at illegal tax sales.¹⁰¹ Annually a list of lands offered at tax sale 3 years successively, on which there was no bid equal to the amount of taxes due thereon, is prepared by the treasurer, certified by the auditor, and delivered to the prosecuting attorney.¹⁰²

The state's share of taxes collected by the county treasurer is disbursed to the proper state officers on warrants drawn by the auditor on the county treasury.¹⁰³

The auditor certifies to the treasurer the amount of excise tax due from financial institutions.¹⁰⁴ For excise tax purposes, each financial institution delivers to the auditor monthly statements showing the number of its shares, amount of deposits, and kindred information.¹⁰⁵ The auditor is authorized to examine the records of the recorder and clerk of the circuit court to ascertain whether all persons have paid intangible taxes; and for this purpose may interrogate any person under oath and examine private records of such person.¹⁰⁶

The excise tax on dogs and dog kennels is administered by the township assessors and the county auditor.¹⁰⁷

The auditor issues licenses for peddlers, shows, theaters,¹⁰⁸ transient merchants,¹⁰⁹ and public warehouses.¹¹⁰

¹⁰⁰ Acts 1840-41 (general), ch. 2, secs. 37, 44. Acts 1919; Burns 64-2403 to 64-2409; Baldwin 15811, 15833 to 15838. *Reid v. State ex rel. Thompson*, 74 Ind. 252 (1881); *Smith v. Kyler*, 74 Ind. 575 (1881); *Woolen v. Rockefeller*, 81 Ind. 208 (1881); *Lancaster v. De Hadway*, 97 Ind. 565 (1884); *Rowe v. Peabody*, 102 Ind. 198, 1 N. E. 353 (1885).

¹⁰¹ Acts 1919; Burns 64-1407, 64-2411, 64-2819; Baldwin 15744, 15840, 15881. Acts 1923; Burns 64-2823; Baldwin 15883. *Wolfe v. State ex rel. Kennard*, 90 Ind. 16 (1883).

¹⁰² Acts 1881 (Spec. Sess.), ch. 96, sec. 222. Acts 1919; Burns 64-1518; Baldwin 15772.

¹⁰³ Acts 1877, ch. 90, sec. 1. Acts 1907, 1911; Burns 61-620; Baldwin 13824 (repealed by Acts 1935, ch. 70, sec. 42). Acts 1937; Burns, 1940 suppl., 61-626; Baldwin, 1937 suppl., 13844-47.

¹⁰⁴ Acts 1933; Burns 64-810; Baldwin 15591.

¹⁰⁵ Acts 1933, 1935; Burns, 1940 suppl., 64-807; Baldwin, 1935 suppl., 15588.

¹⁰⁶ Acts 1933; Burns 64-917; Baldwin 15915.

¹⁰⁷ Acts 1897, ch. 119. Acts 1925, ch. 144 (repealed by Acts 1927, ch. 176, sec. 14). Acts 1927, ch. 176 (repealed by Acts 1937, ch. 133, sec. 16). Acts 1923; Burns 16-301, 16-302; Baldwin 3826, 3827. Acts 1937; Burns, 1940 suppl., 16-317; Baldwin, 1937 suppl., 3811-1. *Finerty v. State ex rel. School City of Gary* (1938), 213 Ind. 470, 12 N. E. (2d) 941.

¹⁰⁸ 1 Rev. Stat. 1852; Burns 42-204; Baldwin 10447. Acts 1917, 1937; Burns, 1940 suppl., 42-201; Baldwin, 1937 suppl., 10443. Acts 1901; Burns 42-502, 42-503; Baldwin 10470, 10471. Acts 1895; Burns 42-510; Baldwin 10478.

¹⁰⁹ Acts 1901; Burns 42-402; Baldwin 10491. The auditor keeps a record of such licenses in a book provided for that purpose, and it is open for public inspection. *Id.*

¹¹⁰ Acts 1875, 1879 (Spec. Sess.); Burns 67-201; Baldwin 16206.

He approves and files bonds of ferrymen,¹¹¹ and records their licenses.¹¹² Formerly he issued licenses for the sale of liquor¹¹³ and foreign merchandise¹¹⁴ as directed by the board of commissioners, and filed remonstrances against issuance of saloon licenses by the board of commissioners.¹¹⁵

The auditor prepares the ditch duplicate showing special assessments against lands for construction or repair of ditches and drains.¹¹⁶ Assessments for flood gates¹¹⁷ and for the cutting or eradicating of Canada thistles¹¹⁸ are placed on the tax duplicate by him. Formerly petitions for drainage and levee improvements were filed with the auditor and he gave notice to viewers and kept a record of all proceedings concerning such improvements.¹¹⁹

The board doing county business has always had power to establish, construct, repair, and vacate county roads.¹²⁰

¹¹¹ Acts 1817-18 (general), ch. 45, sec. 8. Rev. L. 1824, ch. 42, sec. 8. Rev. L. 1831, ch. 38, sec. 5. Acts 1881 (Spec. Sess.); Burns 36-2504; Baldwin 7679. 1 Rev. Stat. 1852, Acts 1855; Burns 36-2607; Baldwin 7697.

¹¹² Acts 1881 (Spec. Sess.); Burns 36-2610; Baldwin 7700.

¹¹³ Acts 1817-18 (general), ch. 47, secs. 2, 3. Acts 1820-21, ch. 36, secs. 1, 2. Rev. L. 1824, ch. 107, secs. 1, 3. Acts 1853, ch. 66, sec. 3 (repealed by Acts 1855, ch. 106, secs. 1, 2). Acts 1855, ch. 105, sec. 4 (repealed by Acts 1858 (Spec. Sess.), ch. 15). Acts 1873, ch. 59, sec. 2. Padgett v. State, 93 Ind. 396 (1884).

¹¹⁴ Acts 1816-17, ch. 17, sec. 4. Acts 1817-18 (general), ch. 44, sec. 4. Rev. L. 1824, ch. 23, sec. 3. Rev. L. 1831, ch. 21, sec. 7. Rev. Stat. 1838, ch. 22, sec. 7 *et seq.* Rev. Stat. 1843, ch. 12, sec. 165 *et seq.*

¹¹⁵ Acts 1905, ch. 6, sec. 1.

¹¹⁶ Acts 1881 (Spec. Sess.), ch. 43, sec. 5 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1933; Burns 27-134; Baldwin 5770. Storms v. Stevens, 104 Ind. 46, 3 N. E. 401 (1885); Lockwood v. Ferguson, 105 Ind. 380, 5 N. E. 3 (1886); Board of County Comrs. v. Fahlor, 114 Ind. 176, 15 N. E. 830 (1888).

¹¹⁷ Acts 1903; Burns 27-703; Baldwin 5841.

¹¹⁸ Acts 1929, 1937; Burns, 1940 suppl., 15-904; Baldwin, 1937 suppl., 3719.

¹¹⁹ Acts 1881 (Spec. Sess.), ch. 44, sec. 2 (repealed by Acts 1885 (Spec. Sess.), ch. 40, sec. 13). Acts 1891, ch. 196, secs. 2, 24. Acts 1897, ch. 138, secs. 1, 4. Simonton v. Hays, 88 Ind. 70 (1882); Vizzard v. Taylor, 97 Ind. 90 (1884); White v. Fleming, 114 Ind. 560, 16 N. E. 487 (1888); Cooper v. Ray, 148 Ind. 328, 47 N. E. 663 (1897).

¹²⁰ Acts 1807, ch. 44, secs. 1-24. Acts 1811, ch. 29, secs. 1, 2. Acts 1815, ch. 5, secs. 1-20. Acts 1816-17, ch. 8, secs. 1, 4-8, 10, 11, 15, 22. Acts 1817-18 (general), ch. 43, secs. 1, 23. Acts 1818-19, ch. 11, secs. 2, 7, 11, 12. Acts 1819-20, ch. 55, secs. 31, 33. Rev. L. 1824, ch. 87, secs. 1, 4-7, 9, 12, 15, 24, 25. Rev. L. 1831, ch. 20, sec. 22; ch. 82, secs. 1, 4, 6, 12, 14, 23, 47. 1 Rev. Stat. 1852, ch. 48. Acts 1881 (Spec. Sess.), chs. 61-64. Acts 1905, 1907; Burns 36-201 *et seq.*; Baldwin 8756 *et seq.* Acts 1919; Burns 36-301 *et seq.*; Baldwin 8859 *et seq.* Acts 1907; Burns 36-401 *et seq.*; Baldwin 8992 *et seq.* Acts 1919; Burns 36-501 *et seq.*; Baldwin 8879 *et seq.* Acts 1933; Burns 36-1101 *et seq.*; Baldwin 8699 *et seq.*

The auditor, being clerk of said board, has, accordingly, kept a record of road proceedings.¹²¹ Road petitions are filed with the auditor for presentment to the board of commissioners.¹²² When road viewers are appointed by the board, the auditor notifies the viewers and the county surveyor of their appointment and the time and place for their meeting.¹²³ Reports of road viewers are filed with the auditor and he enters road assessments on the tax duplicate or special assessment roll.¹²⁴ The county highway supervisor files with the auditor requisitions for all tools, implements, supplies, materials, and equipment needed for county roads.¹²⁵ Formerly the auditor annually delivered to the road supervisor a list of landowners of the county¹²⁶ and annually delivered to each township trustee a list of all road taxes assessed against each individual in the township.¹²⁷

Certified copies of the official oaths of all officers appointed by the board of commissioners, together with certified copies of oaths of such township officers (except justices of the peace and constables) as required by the board, are filed with the auditor.¹²⁸ When a bond is required of any such officer, it also is filed with the auditor.¹²⁹ The board of commissioners meets in the office of the auditor, at any time without notice or precept, for the purpose of approving official bonds which are required to be approved by the board.¹³⁰ The official bond of the county assessor is approved by and filed with the auditor; and the assessor's official oath is administered by the auditor and endorsed on

¹²¹ Acts 1921; Burns 36-1451; Baldwin 8954. Acts 1905; Burns 36-1222; Baldwin 8823.

¹²² Acts 1919, 1921; Burns 36-304; Baldwin 8862.

¹²³ Acts 1895, ch. 11, sec. 1. Acts 1905, 1907; Burns 36-1301; Baldwin 8787. *Turpin v. Eagle Creek & L. W. L. G. R. Co.*, 48 Ind. 45 (1874).

¹²⁴ Acts 1869 (Spec. Sess.), ch. 35, sec. 3 (repealed by Acts 1929, ch. 215, sec. 73). Acts 1877, ch. 46, sec. 3. Acts 1905, 1907; Burns 36-1301, 36-1305; Baldwin 8787, 8791. Acts 1921; Burns 36-1412; Baldwin 8015. *Florer v. McAfee*, 135 Ind. 540, 35 N. E. 277 (1893); *Smyth v. State ex rel Braun*, 158 Ind. 332, 62 N. E. 449 (1902).

¹²⁵ Acts 1935; Burns, 1940 suppl., 36-1114; Baldwin, 1935 suppl., 8703-1.

¹²⁶ Rev. Stat. 1843, ch. 16, sec. 105.

¹²⁷ Acts 1883, ch. 56, sec. 20.

¹²⁸ Rev. Stat. 1843, ch. 4, sec. 84. 1 Rev. Stat. 1852; Burns 49-104; Baldwin 13057.

¹²⁹ Rev. Stat. 1843, ch. 4, secs. 88, 89. 1 Rev. Stat. 1852; Burns 49-104, 49-105; Baldwin 13057, 13063.

Bond of township trustee. *Opinions of the Attorney General of Indiana, 1939*, pp. 7, 8.

¹³⁰ Acts 1851-52; Burns 49-123; Baldwin 13093.

said bond.¹³¹ The official bond of each township trustee is approved by the auditor.¹³²

The auditor is clerk of the board of commissioners,¹³³ the county council,¹³⁴ and the county board of tax adjustment,¹³⁵ and he is secretary of the board of finance.¹³⁶ He is also a member and secretary of the county board of review,¹³⁷ and a member of the county school fund board.¹³⁸ From 1841 to 1890 he was a member of the boards performing duties analogous to those of the present county board of review.¹³⁹ Formerly the auditor was a member of the election board under the local option liquor laws,¹⁴⁰ was a member of the district board of equalization,¹⁴¹ and was clerk of the old-age pension board.¹⁴² The auditor keeps a record of all the boards of which he is clerk or secretary.

When the county borrows money, the bonds or notes are executed by the county commissioners and are attested, advertised, and sold by the auditor. Printed copies of the ordinance authorizing the bond issue, together with specifications describing the bonds, are kept on file in the auditor's office, open to public inspection.¹⁴³ If the amount

¹³¹ Acts 1919, 1921; Burns 64-1101; Baldwin 15696.

¹³² Acts 1859, 1889; Burns 65-102; Baldwin 16050. Acts 1915; Burns 65-103; Baldwin 16061. *Copeland v. State ex rel. Davis*, 126 Ind. 51, 25 N. E. 866 (1890).

¹³³ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53. Acts 1855, ch. 37, sec. 1. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418.

¹³⁴ Acts 1899; Burns 26-509; Baldwin 5373.

¹³⁵ Acts 1932 (Spec. Sess.), ch. 10, sec. 4. Acts 1933, ch. 237, sec. 4. Acts 1937; Burns, 1940 suppl., 61-310; Baldwin, 1937 suppl., 15897-4.

¹³⁶ Acts 1937; Burns, 1940 suppl., 61-629; Baldwin, 1937 suppl., 15844-50.

¹³⁷ Acts 1891, ch. 99, secs. 114, 116. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

¹³⁸ Acts 1865, 1935; Burns, 1940 suppl., 28-209; Baldwin, 1935 suppl., 6558.

¹³⁹ Acts 1838-39 (general), ch. 14, secs. 14, 15. Acts 1840-41 (general), ch. 1, secs. 13, 18. 1 Rev. Stat. 1852, ch. 6, sec. 91; ch. 35, sec. 2. Acts 1872 (Spec. Sess.), ch. 37, secs. 150, 277, 278. Acts 1877, ch. 89, sec. 1. Acts 1881 (Spec. Sess.), ch. 96, sec. 129.

¹⁴⁰ Acts 1908 (Spec. Sess.), ch. 2, sec. 5. Acts 1911, ch. 7, sec. 5. *Kunkle v. Coleman*, 174 Ind. 315, 92 N. E. 61 (1910).

¹⁴¹ 1 Rev. Stat. 1852, ch. 35, secs. 5-7. This board was abolished by Acts 1872 (Spec. Sess.), ch. 37.

¹⁴² Acts 1933, ch. 36, secs. 2, 9, 12 (all repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

¹⁴³ Acts 1859, 1921; Burns 26-540; Baldwin 5405.

of a bond issue exceeds \$5,000, and if 10 taxpayers file objections with the auditor, the objections will be certified by the auditor to the state board of tax commissioners for hearing and disposition.¹⁴⁴ Contracts for extension of time for payment of county or township bonds by issuance of "redemption bonds" are executed by the county commissioners and attested by the auditor, and one executed copy is kept by the auditor; and the auditor keeps a record of redemption bonds issued in pursuance of such contract.¹⁴⁵

The auditor examines and settles all accounts and demands chargeable against the county which no law requires to be settled and allowed by some other tribunal or person.¹⁴⁶

Claims against the county (for consideration by the board of commissioners) are filed with the auditor and presented by him to the board of commissioners.¹⁴⁷ He makes certificates showing quality and price in compliance with the contracts.¹⁴⁸ He publishes all such claims and allowances thereon and also all allowances against the county made by courts.¹⁴⁹ On appeals from decisions of the board of commissioners, the auditor approves the appeal bond, prepares the transcript of proceedings, and transmits the bond, transcript, and all documents to the reviewing court.¹⁵⁰

Scalps of woodchucks, wolves, and foxes; heads of owls, hawks, and crows; and eggs of crows are presented to the auditor with the statutory affidavits for the purpose of obtaining bounties thereon.¹⁵¹

Specifications, bids, and contracts for materials and supplies required for county officials for the ensuing year are placed on file and kept in the auditor's office where they are open to public inspection.¹⁵²

¹⁴⁴ Acts 1919, 1920 (Spec. Sess.), 1921, 1923; Burns 64-1332; Baldwin 15736.

¹⁴⁵ Acts 1933; Burns 26-1015 to 26-1017; Baldwin 5353 to 5355.

¹⁴⁶ Rev. Stat. 1843, ch. 7, sec. 56. 1 Rev. Stat. 1852; Burns 49-3005; Baldwin 5419.

¹⁴⁷ Acts 1879 (Spec. Sess.); Burns 26-805; no Baldwin.

¹⁴⁸ Acts 1899; Burns 26-538; Baldwin 5403.

¹⁴⁹ Acts 1875, ch. 18, sec. 1. Acts 1899; Burns 26-816; Baldwin 5268. Acts 1931; Burns 26-817 to 26-819; Baldwin 5269 to 5271. *Cheney v. State ex rel. Risk*, 165 Ind. 121, 74 N. E. 892 (1905).

¹⁵⁰ 1 Rev. Stat. 1852; Burns 26-902, 26-903; Baldwin 5278, 5279. *Scotten v. Divelbiss*, 46 Ind. 301 (1874); *Shirk v. Moore*, 96 Ind. 199 (1884); *Strebin v. Lavengood*, 163 Ind. 478, 71 N. E. 494 (1904); *Smith v. Gustin*, 169 Ind. 42, 81 N. E. 722 (1907).

¹⁵¹ Acts 1875; Burns 26-1101; Baldwin 5288. Acts 1883; Burns 26-1102; Baldwin 5289. Acts 1911; Burns 26-1103; Baldwin 3802.

¹⁵² Acts 1899, 1903, 1933; Burns 26-536; Baldwin 5401.

When an election is held to change the boundaries of counties, the clerk of the circuit court of each of the affected counties makes out certified copies of the election returns and files them in the office of the auditor of each of such counties. The auditor and board of commissioners in each county then examines the returns, and if the proposed change of boundaries was carried at the election, the auditor enters an order to that effect in the order book of the board of commissioners.¹⁵³ The auditor makes a certificate of tax levies for the purpose of raising funds from the detached territory to pay the debts of the county from which it was detached.¹⁵⁴

The township trustees quadrennially meet in the office of the auditor for the purpose of electing a county superintendent of schools. After notice is given by the auditor, the trustees meet there at any time to fill a vacancy in such office. The auditor is clerk of the election and keeps a record thereof. In case of a tie vote the auditor casts the deciding vote. The person elected files his oath of office and official bond with the auditor, who approves the bond. The auditor reports the election to the state superintendent of public instruction.¹⁵⁵

The auditor of state prepares maps or plats of the lands belonging to the state and located in the county, known as the swamplands, indemnity lands, saline lands, and the lands escheated or forfeited to the state, and delivers them to the county auditor, who causes an appraisal thereof, registers the lands in a book kept for that purpose, and records the sales of such lands.¹⁵⁶

The auditor must preserve the documents, books, papers, and maps deposited in his office.¹⁵⁷ If any map or plat in

¹⁵³ Acts 1875; Burns 26-201; Baldwin 5032.

¹⁵⁴ Acts 1875; Burns 26-204, 26-205; Baldwin 5035, 5036.

¹⁵⁵ Acts 1873, ch. 25, secs. 2. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State *ex rel.* Nebecker v. Sutton, 99 Ind. 300 (1884); State *ex rel.* Laughlin v. Porter, 113 Ind. 79, 14 N. E. 883 (1888); State *ex rel.* Williams v. Edwards, 114 Ind. 581, 16 N. E. 627 (1888); State *ex rel.* Drummond v. Dillon, 125 Ind. 65, 25 N. E. 136 (1890); State *ex rel.* Morris v. McFarland, 149 Ind. 266, 49 N. E. 5 (1898).

¹⁵⁶ Acts 1825, ch. 47, sec. 2. Rev. L. 1831, ch. 11, sec. 6. Rev. L. 1833, ch. 10, secs. 6, 7. 1 Rev. Stat. 1852, ch. 104, sec. 13. Acts 1855, ch. 85, secs. 1, 4. Acts 1883, ch. 124, sec. 2. Acts 1889; Burns 62-206 to 62-209; Baldwin 15272 to 15275.

¹⁵⁷ Acts 1840-41 (general), ch. 2, secs. 8, 54. Rev. Stat. 1843, ch. 7, secs. 5, 16, 17, 53; ch. 15, sec. 34. Acts 1883, ch. 56, sec. 1. Acts 1891, ch. 99, secs. 114, 116. 1 Rev. Stat. 1852; Burns 26-611, 26-621, 49-3004; Baldwin 5226, 5238, 5418. Acts 1899; Burns 26-509; Baldwin 5373. Acts 1919, 1920 (Spec. Sess.); Burns 64-1201; Baldwin 15700.

his office becomes worn or defaced, he makes a new copy thereof. He takes copies of any maps or plats in the recorder's office that may be necessary for the discharge of the auditor's official duties.¹⁵⁸

Under former laws the auditor prepared blank forms of pollbooks and election returns, and delivered them to the inspectors of the election precincts;¹⁵⁹ delivered election supplies to the registration inspector of each precinct;¹⁶⁰ kept the completed registration books and forms in his office, open to public inspection;¹⁶¹ filed in his office petitions for elections under the local option liquor laws;¹⁶² and delivered to the clerk of the circuit court the various papers involved in election contests heard by the board of commissioners, together with a transcript of the proceedings of the board.¹⁶³

Each township assessor annually prepares lists of all persons in his township who are deaf, dumb blind, idiotic, or insane, and delivers the lists to the auditor, who reports them to the state department of public welfare.¹⁶⁴

Formerly the township assessors were required to enumerate the families of soldiers, seamen, and marines in active service, and of those who died or were disabled in active service, and deliver the lists to the auditor.¹⁶⁵ The township trustees formerly made enumerations of children between the ages of 5 and 21 years and delivered the returns to the auditor, who delivered them to the state superintendent of public instruction.¹⁶⁶

Once every 6 years the township trustees and their assistants enumerate all white male inhabitants of the state

¹⁵⁸ 1 Rev. Stat. 1852; Burns 49-3232; Baldwin 5432.

¹⁵⁹ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

¹⁶⁰ Acts 1911, ch. 150, sec. 5 (repealed by Acts 1913, ch. 185, sec. 25).

¹⁶¹ Acts 1911, ch. 150, sec. 13 (repealed by Acts 1913, ch. 185, sec. 25).

¹⁶² Acts 1908 (Spec. Sess.), ch. 2, sec. 1. Acts 1911, ch. 7, sec. 5.

¹⁶³ Acts 1816-17, ch. 9, sec. 22. Rev. L. 1831, ch. 33, secs. 8, 9. Rev. Stat. 1843, ch. 5, sec. 103.

¹⁶⁴ Acts 1849-50 (general), ch. 17, sec. 4. Acts 1859, ch. 7, secs. 1, 2. Acts 1891, ch. 99, sec. 54. Acts 1919; Burns 64-607; Baldwin 15575.

The foregoing laws require the report to be made to the state board of charities. In 1936 the duties of that board were transferred to the state department of public welfare. Acts 1936 (Spec. Sess.), ch. 3, sec. 11.

¹⁶⁵ Acts 1865, ch. 40, secs. 2, 3, 5. Acts 1923, ch. 4, sec. 1.

¹⁶⁶ Rev. Stat. 1843, ch. 15, sec. 25. Acts 1846-47 (general), ch. 94, sec. 2. Acts 1855 ch. 86, sec. 26.

over 21 years old.¹⁶⁷ Books and blanks, together with copies of the law requiring such enumerations, are furnished to the township trustees by the auditor.¹⁶⁸ The trustees' returns are filed in the office of the auditor.¹⁶⁹ The auditor examines the returns and corrects (by orders recorded in a separate book) any errors, mistakes, or omissions discovered. For this purpose he may subpoena and question witnesses.¹⁷⁰ The auditor then certifies the corrected enumerations to the auditor of state.¹⁷¹ Likewise there is an enumeration of colored male inhabitants. Separate lists are made; one is designated "white male inhabitants" and the other "colored male inhabitants."¹⁷²

If on account of death, sickness, or other casualty the judge of the circuit court fails for 3 consecutive days to attend court during termtime, the auditor, sheriff, and clerk of the circuit court, acting together, may appoint a temporary judge to serve until the return of the regular judge or until his successor is named.¹⁷³

Petitions for condemnation of schoolhouses, as unfit for use for school purposes, are filed with the auditor. The auditor mails and publishes notices of hearings, and calls special joint sessions of the board of commissioners and county council to hold hearings on such petitions.¹⁷⁴

Formerly petitions to have the surveyor removed from office were filed with the auditor for presentment to the board of commissioners.¹⁷⁵ Vacancies in the former office of real estate appraiser were filled through appointment by the auditor.¹⁷⁶

Articles of incorporation of humane societies are filed

¹⁶⁷ Const. 1816, art. 3, sec. 2. Const. 1851, art. 4, sec. 4. Acts 1853, ch. 41, secs. 1, 2. Acts 1865 (Spec. Sess.); Burns 65-601 to 65-605; Baldwin 7490 to 7494.

¹⁶⁸ Acts 1844-45 (general), ch. 29, sec. 2. Acts 1853, ch. 41, sec. 2. Acts 1865 (Spec. Sess.); Burns 65-614; Baldwin 7503.

¹⁶⁹ Acts 1844-45 (general), ch. 29, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-603; Baldwin 7492.

¹⁷⁰ Acts 1865 (Spec. Sess.); Burns 65-610; Baldwin 7499.

¹⁷¹ Acts 1844-45 (general), ch. 29, sec. 5. Acts 1853, ch. 41, sec. 3. Acts 1865 (Spec. Sess.); Burns 65-611; Baldwin 7500.

¹⁷² Acts 1877; Burns 65-619, 65-620; Baldwin 7509, 7510.

¹⁷³ 2 Rev. Stat. 1852, pt. 1, ch. 4, secs. 4, 17. Acts 1881 (Spec. Sess.); Burns 4-3103; Baldwin 1261.

¹⁷⁴ Acts 1931; Burns 28-3002 to 28-3004; Baldwin 6144 to 6146.

¹⁷⁵ Rev. Stat. 1843, ch. 10, sec. 4.

¹⁷⁶ Acts 1858 (Spec. Sess.), ch. 2, sec. 1.

with the auditor and form the basis for the distribution of humane funds on warrants drawn by him.¹⁷⁷

Formerly every fire insurance company doing business in Indiana, not organized under Indiana laws, was required to make semiannual reports to the auditor showing premiums received by the company for fire insurance on property in the county and showing all losses paid by the company for the last semiannual period.¹⁷⁸ Formerly financial statements of banks were filed with the auditor.¹⁷⁹

Formerly the auditor, as clerk of the board of commissioners, issued old-age pension certificates to applicants approved by the board, and delivered duplicates thereof to the auditor of state.¹⁸⁰

Copies of reports to the state board of accounts by its field examiners showing the results of their examinations of county offices are filed with the auditor.¹⁸¹

The auditor furnishes all county officials with books, stationery, and blanks required in doing the public business pertaining to the auditor's office.¹⁸²

The auditor, as relator, may sue, in the name of the state, to recover money owing to the county;¹⁸³ and the auditor may compromise the suits brought by him and receive the money agreed to be paid.¹⁸⁴

The auditor and his deputies can administer all oaths necessary in the performance of their duties.¹⁸⁵

Forms of various books, blanks, documents, and reports have been prescribed for county auditors by the state board

¹⁷⁷ Acts 1913; Burns 9-2504, 9-2505; Baldwin 3805, 3806.

¹⁷⁸ Acts 1891, ch. 192, sec. 1. On June 16, 1893 this act was held unconstitutional. *Henderson v. London & Lancashire Ins. Co.*, 135 Ind. 23, 34 N. E. 565 (1893).

¹⁷⁹ Acts 1905, ch. 56, sec. 2 (repealed by Acts 1907, ch. 281, sec. 6).

¹⁸⁰ Acts 1933, ch. 36, sec. 12 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

¹⁸¹ Acts 1909; Burns 60-211; Baldwin 13862.

¹⁸² Acts 1879 (Spec. Sess.); Burns 49-3018; Baldwin 5434.

¹⁸³ 1 Rev. Stat. 1852; Burns 49-3017; Baldwin 5431. *Rogers v. Gibson*, 15 Ind. 218 (1860); *Scotten v. State ex rel. Simonton*, 51 Ind. 52 (1875); *Yater v. State ex rel. Board of County Comrs.*, 58 Ind. 299 (1877); *Hostetler v. State ex rel. Dean*, 62 Ind. 183 (1878); *Vanarsdall v. State ex rel. Watson*, 65 Ind. 176 (1879); *Gauntt v. State ex rel. Stout*, 81 Ind. 137 (1881); *Heagy v. State ex rel. Forkner*, 85 Ind. 260 (1882); *Demarest v. Holdeman*, 157 Ind. 467, 62 N. E. 17 (1901).

¹⁸⁴ *Cabel v. McCafferty*, 53 Ind. 75 (1876); *Vigo Twp. v. Board of County Comrs.*, 111 Ind. 170, 12 N. E. 305 (1887).

¹⁸⁵ 1 Rev. Stat. 1852; Burns 49-3013; Baldwin 5427.

of accounts,¹⁸⁶ which was created in 1909.¹⁸⁷ Nearly all of these forms were prescribed in 1910 and 1911, though some changes have been made since then. Most of the books and records required by the state board of accounts were specifically required by statute; but the board, under its broad statutory powers, has in some instances required books and records, such as the auditor's monthly balance record, not specifically required by statute. The auditor is not required to keep as many separate records now as he did before 1924, since the state board consolidated many of his records that year.¹⁸⁸

The auditor must keep all books and records in a fire-proof building when available.¹⁸⁹

RECEIPTS AND DISBURSEMENTS

(See also entries 286-302)

GENERAL FUNDS

321. MONTHLY BALANCE RECORD, 1912-. 3 vols.

Record of monthly balances of county funds, showing date of balance, amounts of receipts and disbursements, name and number of fund, and previous and current balance or overdraft in each fund. Arr. chron. by dates of balances. No index. Hdw. 144 pp. 20 x 15 x 1. 1 vol., 1912-24, attic stor. rm.; 2 vols., 1925-, aud. off.

322. FEE AND CASH BOOK, 1861-Mar. 1865, 1910-. 5 vols.

Title varies: Register of Fees, 1861-Mar. 1865, 1 vol.

Record of fees collected, showing date, nature, and amount of collection; name of payer; total receipts; and date of payment to treasurer. Arr. chron. by dates of collections. No index. Hdw. 642 pp. 18 x 12 x 3. 3 vols., 1861-Mar. 1865, 1910-June 1926, attic stor. rm.; 1 vol., July 1926-35, aud. rec. rm.; 1 vol., 1936-, aud. off.

¹⁸⁶ Acts 1909; Burns 60-202; Baldwin 13855. Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

¹⁸⁷ Acts 1909; Burns 60-202; Baldwin 13855.

¹⁸⁸ *Ibid.* Information obtained from E. P. Brennan, state examiner, on May 18, 1939, by W. Davis Hamilton.

¹⁸⁹ Rev. Stat. 1843, ch. 7, sec. 22. 1 Rev. Stat. 1852; Burns 26-624, 49-3004; Baldwin 5240, 5418.

323. [Receipts] APPROPRIATION AND DISBURSEMENT LEDGER, 1871-1911, 1925-. 18 vols. Title varies: County Revenue Ledger, 1871-1911, 2 vols.

Record of receipts and disbursements, showing dates, numbers, and amounts of receipts and warrants; and names of payer, payee, and fund. Also contains: Register of Receipts, 1925-, entry 324; Ledger of Appropriation and Expenditures, 1925-, entry 325; Appropriations Ledger, 1925-, entry 326; and School Fund Ledger, 1903-11, 1925-, entry 345. Arr. by names of funds, thereunder chron. by dates of receipts and disbursements. No index. Hdw. 400 pp. 18 x 12 x 3. 1 vol., 1871-Mar. 1880. attic stor. rm.; 14 vols., Apr. 1880-1911, 1925-37, aud. rec. rm.; 3 vols., 1938-, aud. off.

324. REGISTER OF RECEIPTS, 1841-1911, 1917-24. 9 vols. 1925- in [Receipts] Appropriation and Disbursement Ledger, entry 323.

Records of receipts, showing date, number, and amount of receipt; and names of payer and fund. Arr. chron. by dates of receipts. No index. Hdw. 360 pp. 18 x 20 x 2½. Attic stor. rm.

325. LEDGER OF APPROPRIATIONS AND EXPENDITURES, Dec. 1864-May 1884, Apr. 1908-1924. 11 vols. (2-4, 4, 5; 5 vols. unlabeled). Title varies: Record of Expenditures, Dec. 1864-May 1884, Apr. 1908-11, 6 vols. 1925- in [Receipts] Appropriation and Disbursement Ledger, entry 323.

Record of appropriation and disbursements, showing date and amount of appropriation; date, number, and amount of warrant; names of payee and fund; and balance in each fund. Arr. chron. by dates of warrants. No index. Hdw. 400 pp. 18 x 14 x 3. Attic stor. rm.

326. APPROPRIATION LEDGER, 1900-1924. 15 vols. 1925- in [Receipts] Appropriation and Disbursement Ledger, entry 323.

Record of appropriations for county expenditures and disbursements therefrom, showing amount of appropriation; date, amount, and number of warrant; and names of payee and fund. Arr. chron. by dates of warrants. No index. Hdw. 400 pp. 18 x 12 x 3. Attic stor. rm.

327. WARRANTS, 1925-. 54 vols. Title varies: Register of Warrants, 1931. 4 vols.

Carbon copies of warrants drawn for disbursements of county funds, showing date, nature, number, and amount of warrant; appropriation number; and names of payee, depository, and

fund. Arr. num. by warrant nos. No index. Typed. 500 pp. 18 x 12 x 3. 8 vols., 1925-28, attic stor. rm.; 39 vols., 1929-38, aud. rec. rm.; 7 vols., 1939-, aud. off.

For prior records, see entry 332.

328. COUNTY WELFARE WARRANTS, Mar. 17, 1934-. 14 vols. (dated).

Copies of warrants issued to recipients of public welfare assistance, showing date, nature, number, and amount of warrant; appropriation number; and name of payee. Arr. num. by warrant nos. No index. Hdw. 300 pp. 18 x 12 x 1½. 8 vols., Mar. 17, 1934-1938, aud. rec. rm.; 6 vols., 1939-, aud. off.

For other old-age assistance records, see entries 92, 93, 329, 330, 428-432.

329. OLD-AGE PENSION FUND, 1935-. 1 vol.

Register of warrants issued to recipients of public welfare assistance, showing appropriation, application code, serial, and warrant numbers; date and amount of warrant; names of payee, fund, and depository; and total amount of warrants. Arr. num. by warrant nos. Typed. 500 pp. 18 x 12 x 3. Aud. off.

For other old-age assistance records, see entries 92, 93, 328, 330, 428-432.

330. CANCELLED WELFARE WARRANTS, 1937-. 24 f. d., 8 cartons.

Canceled warrants issued to recipients of public welfare assistance, showing date, nature, number, and amount of warrant; appropriation number; and names of payee, depository, and fund. Arr. num. by warrant nos. No index. Hdw. F. d., 3 x 8 x 24; cartons, 4 x 9 x 15. Aud. rec. rm.

For other old-age assistance records, see entries 92, 93, 328, 329, 428-432.

331. COURT ALLOWANCE, INSANITY AND MISCELLANEOUS PAPERS, 1868-May 28, 1878, 1886-1909. 6 vols. (1-3; 1 vol. unlabeled; 5, 6). 1826-67, June 1873-85, 1910 in Commissioners' Docket, entry 2; 1911- in Claim and Allowance Record, entry 8.

Record of disbursements for court allowances, showing date, nature, number, and amount of warrant; and name of payee. Arr. chron. by dates of warrants. Indexed alph. by names of claimants, 1868-May 28, 1878, 1886-Sept. 1898; no index, Oct. 1898-1909. Hdw. 578 pp. 16 x 12 x 3. 4 vols., 1868-May 28, 1878, 1886-Sept. 1898, attic stor. rm.; 2 vols., Oct. 1898-1909, aud. rec. rm.

332. REGISTER OF WARRANTS, 1827-1924. 28 vols (1-16; 1 vol. unlabeled; 17, 1-10). Title varies: Register of County Orders Paid and Redeemed, 1827-Aug. 28, 1886, 10 vols.; Register of County Orders, Aug. 29, 1886-1910, 8 vols.

Record of warrants drawn for disbursements of county funds, showing date, nature, number, and amount of warrant; names of payee and fund; and payee's receipt for warrant. Also contains: Receipts for County Orders, 1912-24, entry 335; and Register of Free Gravel Road Orders, 1912-24, entry 336. Arr. num. by warrant nos. No index. Hdw. 500 pp. 18 x 12 x 3. 26 vols., 1827-1914, 1918-24, attic stor. rm.; 2 vols., 1915-17, aud. rec. rm.

For subsequent records, see entry 327.

333. REGISTER OF COUNTY ORDERS, July 7, 1841-July 28, 1853, June 10, 1864-June 11, 1866, June 1884-May 1889, 4 vols.

Old volumes of register of county orders issued that have been transcribed into new volumes, showing information as in entry 334. Arr. chron. by dates of orders. No index. Hdw. 479 pp. 16 x 12 x 8. 3 vols., July 7, 1841-July 28, 1853, June 1884-May 1889, aud. rec. rm.; 1 vol., June 10, 1864-June 11, 1866, attic stor. rm.

334. COUNTY ORDERS, 1841-83, Oct. 4, 1884-88, 1896-99, July 6, 1906-7. 10 vols.

Stubs of orders issued for disbursements of county funds, showing date, number, nature, and amount of order; and names of payee and fund. Arr. num. by order nos. No index. Hdw. 400 pp. 18 x 12 x 2. 6 vols., 1841-83, June 1885-88, aud. rec. rm.; 4 vols., Oct. 4, 1884-May 1885, 1896-99, July 6, 1906-7, attic stor. rm.

335. RECEIPTS FOR COUNTY ORDERS, 1890-1911. 3 vols. 1912-24 in Register of warrants, entry 332.

Record of receipts from payees of county warrants, showing date, number, and amount of warrant; names of payee and fund; and payee's receipt for warrant. Arr. num. by warrant nos. No index. Hdw. 500 pp. 18 x 12 x 2½. Attic stor. rm.

336. REGISTER OF FREE GRAVEL ROAD ORDERS, 1882-83, 1888-93, 1899-1911. 5 vols. 1912-24 in Register of Warrants, entry 332.

Register of orders drawn for disbursement of gravel road funds, showing date, number, and amount of order; and names of payee and road. Arr. chron. by dates of orders. No index. Hdw. 300 pp. 16 x 12 x 1½. 1 vol., 1882-83, aud. rec. rm.; 4 vols., 1888-93, 1899-1911, attic stor. rm.

337. RECEIPTS FOR FREE GRAVEL ROAD, 1899-1911. 1 vol. Record of receipts and expenditures for free gravel road construction and repairs, showing date, number, amount, and purpose of order or receipt; viewer's estimate of cost; date and amount of bond issue; and total amounts of interest and receipts. Arr. chron. by dates of receipts. No index. Hdw. 365 pp. 16 x 16 x 3. Attic stor. rm.

338. REGISTER OF ROAD RECEIPTS DRAWN BY TOWNSHIP TRUSTEE, 1841-86. 5 vols. (1-5).

Register of receipts issued by road supervisors to taxpayers for work performed on roads in lieu of road taxes and tendered to treasurer for tax payments, showing names of taxpayer and trustee; date, purpose, and amount of receipt; and file box reference to [Auditor's Miscellaneous Papers], entry 373. Arr. chron. by dates of receipts. Indexed alph. by names of taxpayers. Hdw. 500 pp. 18 x 10 x 2½. Attic stor. rm.

339. QUIETUS, 1928-. 5 vols.

Carbon copies of applications-to-pay and quietuses, showing date, amount, and number of application-to-pay and quietus; and names of payer and fund. This is a combination of two records formerly kept separately: Application-to-Pay, entry 340; and Quietus, entry 341. Arr. num. by quietus nos. No index. Hdw. 150 pp. 18 x 12 x 2. Aud. rec. rm.

340. APPLICATION-TO-PAY, 1914-24. 3 vols. 1928- in Quietus, entry 339.

Stubs of applications-to-pay money to treasurer, showing date, amount, and number of application-to-pay; and names of applicant and fund. Arr. num. by application-to-pay nos. No index. Hdw. 18 x 12 x 1. Attic stor. rm.

341. QUIETUS, 1914-24. 4 vols. 1928- in Quietus, entry 339.

Stubs of quietuses issued by auditor upon presentation of treasurer's receipts for payments made to county, showing date, amount, and number of quietus; and names of payer and fund. Arr. num. by quietus nos. No index. Hdw. 125 pp. 18 x 12 x 1. Attic stor. rm.

342. REDEMPTION QUIETUS, 1891-Apr. 1912. 4 vols.

Stubs of quietuses issued by auditor upon presentation of treasurer's receipts for payments received for redemption of land and lots sold for nonpayment of taxes, showing date, amount, and number of quietus; names of purchaser and redemptioner; and location and description of property. Arr. num. by quietus nos. No index. Hdw. 150 pp. 18 x 14 x 2. Attic stor. rm.

SCHOOL FUNDS

343. SCHOOL CITY LAFAYETTE & WEST LAFAYETTE, 1931-
4 f. d.

Copies of school corporations' warrants and reports, including:

i. City school superintendent's annual financial reports of receipts and disbursements, showing date of report; dates and amounts of receipts and disbursements; receipt and warrant numbers; names of payee, fund, and corporation; and balance. Arr. chron. by dates of reports.

ii. Warrants, showing date, amount, number, and purpose of warrant; and names of payee, fund, and corporation. Arr. num. by warrant nos.

No index. Hdw. 6 x 24 x 18. Aud. rec. rm.

344. SCHOOL FUND CASH BOOK, June 1, 1896-1907. 1 vol. Record of payments of principal and interest on school fund loans, showing date, amount, and number of loan; date and amount of payment; and names of mortgagor and fund. Arr. chron. by dates of payments. No index. Hdw. 500 pp. 18 x 12 x 3. Attic stor. rm.

345. SCHOOL FUND LEDGER, 1840-1902, 1912-23. 7 vols. 1903-11, 1925- in [Receipts], Appropriation & Disbursement Ledger, entry 323.

Record of receipts and disbursements of all school funds, showing dates, numbers, and amounts of receipt and disbursement; name of mortgagor and fund; and amounts of principal, interest, and balance. Arr. chron. by dates of receipts and disbursements. No index. Hdw. 460 pp. 16 x 12 x 2. Aud. rec. rm.

346. SCHOOL FUND LOAN RECORD, 1885-. 2 vols.

Record of school fund mortgages, showing date, number, amount, and nature of loan; names of mortgagor, township, and fund; description, location, and appraised valuation of property; and dates and amounts of payments of interest and principal. Arr. num. by loan nos. Indexed alph. by names of mortgagors. Hdw., 1885-1934; typed, 1935- 500 pp. 16 x 10 x 2. Aud. off.

For other school fund mortgage records, see entries 82, 349.

347. INVENTORY OF TRUST OR SCHOOL FUND LOAN, 1913-.
1 vol.

Inventory of trust and school fund loans, showing date of inventory, number and amount of loan, name of fund, unpaid balance of principal and interest, dates interest due and

paid, amount of loans represented by forfeited or foreclosed loans, and volume and page reference to School Fund Loan Record, entry 346. Arr. chron. by dates of inventories. No index. Hdw. Condition poor. 200 pp. 17 x 17 x 1½. Aud. off.

348. SCHOOL FUND RECORD, 1933-. 1 vol.

Contracts for payment by installments of delinquent interest on school fund loans, showing dates, numbers, and amounts of loan and contract; name and address of mortgagor; amounts of installments and payments; and volume and page reference to School Fund Loan Record, entry 346. Arr. chron. by dates of contracts. Indexed alph. by names of mortgagors. Hdw. 100 pp. 18 x 12 x 1. Aud. off.

349. RECORD OF MORTGAGES FORECLOSED, 1840-59. 1 vol.

Discontinued.

Record of foreclosed school fund mortgages, showing dates and amounts of judgment and satisfaction, and names of mortgagor and fund. Arr. chron. by dates of judgment. No index. Hdw. 476 pp. 16 x 12 x 3. Aud. rec. rm.

For other school fund mortgage records, see entries 82, 346.

TOWNSHIP FUNDS

350. TRUSTEES' VOUCHERS, 1933-. 3 f. d.

Copies of township trustees' vouchers issued for payment of township expenses, showing date, number, nature, and amount of voucher; and names of payee, township, trustee, and fund. Arr. num. by voucher nos. No index. 6 x 24 x 18. Aud. rec. rm.

351. REGISTER OF POOR FUND CLAIMS, 1934-. 2 vols.

Title varies: Poor Relief Claim and Allowance Record, Register of Court Claims, 1934-May 1935, 1 vol. 1822-1910 in Commissioners' Docket, entry 2; 1911-33 in Claim and Allowance Record, entry 8.

Register of poor fund claims paid, showing dates of filing and payment, names of township and claimant, amount and nature of claim, and warrant and trustee's claim numbers. Arr. num. by claim nos. No index. Hdw. 642 pp. 18 x 12 x 3. Aud. off.

352. LEDGER OF TOWNSHIP POOR RELIEF, 1935-. 1 vol.

Record of appropriations and disbursements for poor relief, showing dates and amounts of appropriation and disbursement; names of township and fund; amounts paid from county, state, and Federal funds; and total disbursements. Arr. by names

of twps., thereunder chron. by dates of receipts and disbursements. No index. Hdw. 130 pp. 16 x 11 x 1/2. Aud. off.

353. TRUSTEES' ANNUAL REPORT, 1933-. 84 vols. Sept. 1899-1932 in [Commissioners' Papers], entry 1.

Copies of township trustees' annual report to advisory board of receipts and disbursements, showing date of report; names of township, trustee, advisory board members, fund, payer, and payee; and amounts of receipts, disbursements, and balance. Arr. chron. by dates of reports. No index. Hdw. 50 pp. 12 x 8 x 1/4. Aud. rec. rm.

For prior records, see entry 354.

354. RECORD OF AUDITING BOARD FOR TOWNSHIP TRUSTEES' WARRANTS, 1897-Aug. 1899. 1 vol.

Record of township warrants audited, showing date, amount, number, and nature of warrant; date audited; and names of payee, fund, trustee, and township. Arr. chron. by dates of audits. Indexed alph. by names of payees. Hdw. 212 pp. 16 x 11 x 1. Aud. off.

For subsequent records, see entry 353.

355. TOWNSHIP POOR EXPENDITURES, 1897-1932. 1 vol.

Record of trustees' quarterly reports of expenditures for poor relief, showing dates of report and expenditures, names of township and fund, and amount of expenditure. Arr. by names of twps., thereunder chron. by dates of reports. No index. Hdw. 212 pp. 14 x 8 x 1 1/4. Aud. off.

356. TOWNSHIP TRUSTEE'S EXPENDITURES, 1885-94. 5 vols. (1-5).

Record of trustees' annual report of township expenditures, showing date and amount of voucher, names of payee and township, and total expenditures. Arr. by names of twps., thereunder chron. by dates of vouchers. Indexed alph. by names of payees. Hdw. 500 pp. 16 x 12 x 2. Attic stor. rm.

TAXATION

(See also entries, 303-318).

REAL, PERSONAL AND POLL

357. TRANSFERS, 1891-. 260 vols.

Record of ownership and transfers of title to real property, showing dates of deed and transfer; names of owner, grantee, grantor, and taxing unit; location, description, and assessed valuation of property; kind of deed; and amount of transfer fee. Arr. alph. by names of grantees. No index. Hdw. 300 pp. 18 x 12 x 2. 62 vols., 1891-, aud. rec. rm.; 198 vols., 1891-, aud. off.

358. PLAT BOOKS, 1886-. 93 vols. (dated).

Plat books of lands and lots, showing year of plat; names of owner and taxing unit; location and description of property; and assessed valuation of lands, lots, and improvements. Arr. by twps., thereunder by section nos. No index. Hdw. 163 pp. 14 x 10 x 1. 73 vols., 1886-1927, attic stor. rm.; 20 vols., 1928-, aud. rec. rm.

For other plat books, see entry 78.

359. ASSESSMENTS, 1850-. 1,461 vols.

Record of real and personal property assessments, showing year of assessment, names of property owner and taxing unit, location and description of property, valuation of real and personal property by township and county assessors and board of review, total taxables, exemptions, number of polls, and net amount of taxables. Arr. alph. by names of property owners. No index. Hdw. and typed. 150 pp. 18 x 12 x 1. 813 vols., 1850-99, 1928-, aud. rec. rm.; 648 vols., 1895-1931, Attic stor. rm.

360. ASSESSMENT LIST, 1850-. 2,838 vols.

Schedule of assessments of personal property, showing date of assessment; name, age, occupation, and address of owner; name of taxing unit; itemized list of taxables; valuation by owner and township and county assessors; and number of polls. Arr. by taxing units, thereunder alph. by names of owners. No index. Hdw. 300 pp. 14 x 9 x 2. 2,311 vols., 1850-1934, attic stor. rm.; 527 vols., 1935-, aud. rec. rm.

361. ASSESSMENT LIST, CORPORATION AND NON-INCORPORATION, 1919-. 57 vols.

Statements by domestic corporations of taxable property owned in the county, showing date of statement; name of corporation; location of principal office; kind of business; amounts of capital, common, and preferred stock; market value of stock; value of tangible property and franchises; amounts of gross receipts, surplus reserve fund, and undivided profits for last fiscal year; and copy of balance sheet. Arr. alph. by names of corporations. No index. Hdw. 600 pp. 14 x 9 x 2. 36 vols., 1919-31, attic stor. rm.; 21 vols., 1932-, aud. rec. rm.

362. RECORD OF DELINQUENTS, 1841-57, 1872-74. 17 vols.
(6 vols. unlabeled; 7-14; 3 vols. unlabeled).

Record of delinquent taxes, showing year of delinquency; tax duplicate number, location, description, and valuation of property; names of property owner and taxing unit; and amounts of delinquency, penalty, and interest. Arr. by names of taxing units, thereunder alph. by names of property owners. No index. Hdw. 720 pp. 20 x 14 x 4. Attic stor. rm.

EXEMPTIONS

363. MORTGAGE EXEMPTIONS, 1913-. 93 vols. Title varies: Affidavit of Mortgage Indebtedness, 1915-19, 1921-22, 1924-27, 1932, 60 vols.

Affidavits of mortgage indebtedness, showing dates of affidavit, filing, and mortgage; names of mortgagor and taxing unit; name and address of mortgagee; location and description of property; amounts of mortgage, unpaid balance, and exemption claimed and allowed; and volume and page reference to Mortgage Record, entry 81. Arr. by taxing units, thereunder alph. by names of mortgagors. No index. Hdw. 300 pp. 14 x 9 x 1½. 65 vols., 1913-32, attic stor. rm.; 28 vols., 1933-, aud. rec. rm.

364. SOLDIERS EXEMPTION, 1920-23, 1929-. 14 vols.

Affidavits of soldiers, sailors, marines, nurses, and pensioned widows filed to obtain tax exemption, showing date of affidavit; amount of exemption; name, address, and age of affiant; pension certificate or compensation award number; type of service; and location and description of property. Arr. by names of twps., thereunder alph. by names of affiants. No index. Hdw. 150 pp. 9 x 7 x 1. 3 vols., 1920-23, 1929-32, attic stor. rm.; 6 vols., 1933-, aud. rec. rm.

TAX SALES

365. TAX SALES RECORD, 1848-. 26 vols. Title varies: Sales Book, 1848-72, 18 vols.

Record of sales of land and lots for nonpayment of taxes, showing dates of sale and redemption; names of owner, purchaser, and assignee or redemptioner; location and description of property; number of tax duplicate and sale certificate; and amounts of tax, costs, sale, and redemption. Arr. num. by sale certificate nos. No index. Hdw. 280 pp. 16 x 11 x 1½. 24 vols., 1848-96, treas. vt.; 2 vols., 1897-, treas. off.

366. PUBLIC SALE OF LANDS AND TOWN LOTS, 1844-. 9 vols. Title varies: Sale Book for taxes, 1844-54, 1862-67, 1877-79, 3 vols.; Record of Advertised Lots and Lands, 1868-76, 1 vol.

Record of lands and lots offered for sale for nonpayment of taxes, showing dates of sale and redemption; names of owner, purchaser, and assignee or redemptioner; location and description of property; tax duplicate and sale certificate numbers; and amounts of tax, penalty, interest, costs, sale, and redemption. Arr. chron. by dates of sales. No index.

Hdw., 1844-1935; hdw. and typed, 1936-. 269 pp. 18 x 12 x 2. 6 vols., 1844-61, 1870-1909, aud. rec. rm.; 1 vol., 1862-69, attic stor. rm.; 2 vols., 1910-, aud. off.

367. REGISTER OF TAX CERTIFICATES PURCHASE AND REDEMPTION RECEIPTS, 1887-1909. 1 vol. (2).

Record of treasurer's receipts for payments received from sales and redemptions of land and lots sold for nonpayment of taxes, showing dates of sale and redemption; date, number, and amount of receipt; names of owner, purchaser, and redemptioner; and location and description of property. This is a combination of two records formerly kept separately: Register of Treasurer's Tax Sale Purchase Receipts, entry 368; and Register of Treasurer's Tax Sale Redemption Receipts, entry 369. Arr. num. by receipt nos. Indexed alph. by names of owners, purchasers, and redemptioners. Hdw. 600 pp. 18 x 12 x 3. Aud. rec. rm.

368. REGISTER OF TREASURER'S TAX SALE PURCHASE RECEIPTS, 1841-86. 1 vol. 1887-1909 in Register of Tax Certificates Purchase and Redemption Receipts, entry 367.

Record of treasurer's receipts for payments received from sales of lands and lots for nonpayment of taxes, showing dates of sale and receipt; number and amount of receipt; names of owner, purchaser, and taxing unit; and location and description of property. Arr. chron. by dates of receipts. Indexed alph. by names of owners. Hdw. 500 pp. 18 x 12 x 3. Attic stor. rm.

369. REGISTER OF TREASURER'S TAX SALE REDEMPTION RECEIPTS, 1844-86. 1 vol. 1887-1909 in Register of Tax Certificates Purchase and Redemption Receipts, entry 367.

Record of treasurer's receipts for payments received from redemption of lands and lots sold for nonpayment of taxes, showing dates of sale and redemption, number and amount of receipt, names of purchaser and redemptioner, and location and description of property. Arr. chron. by dates of receipts. Indexed alph. by names of redemptioners. Hdw. 500 pp. 18 x 12 x 3. Attic stor. rm.

LICENSES

370. DOG REGISTER AND TAX RECORD, 1901-15, 1920-26. 10 vols.

Record of dog taxes collected, showing date of collection; names of township, assessor, and owners; number of dogs

owned; sex, breed, and color of each; amount of tax; and receipt number. Arr. alph. by names of owners. No index. Hdw. 150 pp. 14 x 12 x 1/2. 9 vols., 1901-15, attic stor. rm.; 1 vol., 1920-26, aud. rec. rm.

OFFICIAL BONDS

(See also entries 28-36)

371. OFFICIAL BONDS, 1893-. 3 vols. (2, 3, 3).

Record of bonds posted by county officials, showing date, amount, and conditions of bond; dates of filing and approval; and names of official, office, and sureties. Also contains: Bonds, Aug. 1911-, entry 372. Arr. chron. by dates of filing. Indexed alph. by names of officials. Hdw. 576 pp. 18 x 12 x 3. 1 vol., 1893-Jan. 1911, aud. rec. rm.; 2 vols., Aug. 1911-, aud. off.

372. BONDS, 1893-Jan. 18, 1911. 1 vol. (2). Aug. 1911- in Official Bonds, entry 371.

Record of bonds posted by township and school officials, showing date, amount, and conditions of bond; and names of official, sureties, office, and township. Arr. chron. by dates of bonds. Indexed alph. by names of officials. Hdw. 480 pp. 18 x 12 x 3. Aud. rec. rm.

MISCELLANEOUS

373. [AUDITOR'S MISCELLANEOUS PAPERS], 1828-. In [Commissioners' Papers], entry 1.

Contains:

- i. Abstracts of delinquent taxes on real property, showing date of delinquency, names of property owner and taxing unit, location and description of property, and amount of delinquency.
- ii. Adjoining county auditor's reports to auditor of Tippecanoe County of adjustment of Congressional township school funds, 1914-18, showing dates of report and filing, name of county, and amounts of revenue and apportionments.
- iii. Affidavits by property owners of mortgage indebtedness, 1899-1930, showing dates of affidavit, filing, and mortgage; names of mortgagor and taxing unit; name and address of mortgagee; location and description of property; and amounts of mortgage, unpaid balance, and exemption claimed and allowed.

- iv. Auditor's certificates of veterans' poll tax exemptions, 1932, showing date of certificate, name and address of veteran, and veteran's service record.
- v. Auditor's copies of consignments of intangible tax stamps to treasurer, 1933-, showing date of consignment, and itemized list and amount of consignment.
- vi. Banks and building and loan associations' monthly reports of intangibles owned, 1933-, showing date of report, name and address of bank or building and loan association, and amount of intangibles owned.
- vii. Canceled warrants, 1828-, showing date, number, nature, and amount of warrant; and names of payee and depository.
- viii. Certificates of error issued to treasurer to correct erroneous tax assessments, 1848-1918, showing date, nature, number, and amount of certificate; names of taxpayer and taxing unit; and volume and page reference to Tax Duplicate, entry 304; and Tax Duplicate [and Delinquent List], entry 303.
- ix. Claims filed from courts of adjoining counties for costs in venued causes 1919-, showing dates of claim, allowance, filing of transcript, trial, and disposition of cause; nature and number of cause; names of plaintiff, defendant, and county; and itemized statement of costs.

For other change of venue records, see entry 215, 216.
- x. Clerk's certificates of circuit court allowances of claims for court expenses and supplies, 1845-, showing dates of certificate, filing, and allowance; name of payee; nature and amount of allowance; and warrant number.
- xi. Copies of auditor's reports to state bureau of statistics of liquor licenses issued, 1911-17, showing dates and number of report, date of filing, names of licensee and taxing unit, and amount of license fees.
- xii. Copies of auditor's reports to state bureau of statistics of local option elections held, 1913-17, showing dates of report and filing, report number, name of taxing unit, and number of votes cast.

- xiii. Copies of county superintendent of schools reports to state superintendent of public instruction of aggregate attendance, 1933-, showing dates of report and filing, name of taxing unit, grades, aggregate attendance and average daily attendance.
- xiv. Copies of county superintendent of schools statistical reports to state superintendent of public instruction, 1936-, showing dates of report and filing, name of township, amounts of receipts and disbursements by funds, and financial statement.
- xv. Copies of auditor's reports to state superintendent of public instruction of distribution of school funds, 1847-, showing dates of report and filing, name of taxing unit, amounts of common school and Congressional township school revenue, local taxes and intangible tax for school purposes, total for each taxing unit, total for county, and average daily attendance of pupils in each taxing unit.
- xvi. Copies of county superintendent of schools reports to auditor of school books sold, 1893-94, showing dates of report and filing; names of trustee, township, and publisher; itemized list of books sold, and amount of receipts.
- xvii. Copies of auditor's reports to state superintendent of public instruction of condition, distribution, and readjustment of school funds, 1880-, showing dates of report and filing, date of balance, name of fund, amount held in trust, loans and certificates in force, cash in treasury, amount due from county, loans paid, losses paid by county, fines and forfeitures, damages, amount of Congressional township school fund transferred to and from other counties, miscellaneous sources and total receipts, loans made, loans absorbed by certificates of purchase, and balance.
- xviii. Copies of auditor's semiannual reports to state superintendent of public instruction of tuition revenue available for apportionment, 1847-, showing dates of report and filing, name of fund, and amount of revenue.

- xix. Copies of auditor's reports to state superintendent of public instruction of names and addresses of township and school board trustees, showing dates of report and filing, and names of trustees and school units.
- xx. Copies of auditor's reports to state superintendent of public instruction of special tuition revenue available for apportionment to school corporations, 1881-, showing dates of report and filing, name of school corporation, and amount of revenue.
- xxi. Copies of auditor's reports to Governor's Commission Unemployment Relief of conditions of relief fund, showing dates of report and filing, name of township, and nature and amounts of receipts and disbursements.
- xxii. Copies of auditor's reports to auditor of state of sexennial enumeration of male inhabitants 21 years of age and over, 1841-, showing dates of report and filing; name, age, and color of male; and total number.
- xxiii. Copies of auditor's reports to auditor of state of receipts and disbursements of county revenue, 1850-, showing dates of report and filing; name of fund; and amounts of receipts, disbursements, and balance.
- xxiv. Copies of auditor's reports to auditor of state of unpaid claims for damages to livestock and poultry by dogs, 1937-, showing dates of report and filing, name of township, and nature and amount of claims.
- xxv. Copies of auditor's annual report to auditor of state of condition of dog fund, 1886-, showing dates of report and filing; name of township; and amounts of receipts, disbursements, and balance.
- xxvi. Copies of township trustees' reports to auditor of poor relief granted, 1859-1932, showing dates of report and filing; names of trustee and township; name, age, sex, color, nationality, occupation, length of county residence, former residence, and marital status of relief recipient; number and ages of family members; sex and nationality of non-family member sharing relief; and date, nature, and amount of assistance granted.

- xxvii. Copies of appointments of persons as members of county welfare board by judge of circuit court, 1936-, showing date and term of appointment; date of filing; name, age, sex, qualifications, and political affiliation of member; and name of judge.
- xxviii. Copies of appointments of county director of public welfare by county board of public welfare, 1936-, showing dates of appointment and filing, name and address of director, and names of members of county board.
- xxix. Copies of notices of bonds posted by county director of public welfare, 1936-, showing dates of notice, approval, and filing; names of director and sureties; and amount of bond.
- xxx. Copies of appointments by county director of public welfare of persons to staff positions, 1936-, showing dates of appointment, approval, and filing; name, address, title, salary, and monthly travel allowance of appointee; and list of eligible appointees.
- xxxi. Copies of authorizations by board of public welfare to staff members to administer oaths and affirmations, 1936-, showing dates of authorization, oath, and filing; and name and title of staff member.
- xxxii. Copies of claims for personal service by employees of county department of public welfare, 1936-, showing dates of claim, filing, and warrant; amounts of claim and warrant; name, classification, and monthly salary of employee; appropriation and warrant numbers; number of days worked; and verification and certification of claim.
- xxxiii. Copies of monthly financial reports by county department of public welfare to state department of public welfare, 1936-, showing dates of report and filing, schedule and amounts of receipts and disbursements, appropriations and balance of welfare funds, and affidavits of certification.
- xxxiv. Copies of claims by county director of public welfare for repayment of assistance granted aged, 1936-, showing dates of claim and filing; name and address of recipient; and amounts of assistance, claim, and repayment.

- xxxv. County officials' quarterly reports to auditor of fees collected, 1841-, showing dates of report and filing, names of official and office, and amount and nature of fees.
- xxxvi. Domestic corporations' statements of taxable property owned in county, 1869-, showing date of statement; name of corporation; location of principal office; kind of business; amounts of capital, common, and preferred stock; market valuation of stock; value of all intangible property and franchises; amounts of gross receipts, surplus, reserve fund, and undivided profits for last fiscal year; and copy of balance sheet.
- xxxvii. Duplicates of orders from auditor to treasurer to pay additional payments to township trustees, 1918-23, showing date, number, nature, and amount of order; and names of payee and fund.
- xxxviii. Financial statements by banks to auditor, 1933-, showing dates of statement and filing, name and address of bank, and amounts of assets and liabilities.
- xxxix. Justices of peace reports to auditor of fines and forfeitures collected, showing dates of report, filing, and collections; names of justice of peace, township, plaintiff, defendant, and payee; and itemized statement of collections.
- xl. List of warrants for bounties paid on wolf scalps, 1832-87, showing date, number, and amount of warrant; date of filing; and names of payee and taxing unit.
- xli. Lists of additional assessments of property, 1848-, showing date of assessment, names of property owner and taxing unit, location and description of property, amount of assessment, and volume and page reference to Tax Duplicate, entry 304; and Tax Duplicate [and Delinquent List], entry 303.
- xlii. Lists of horizontal tax payments and refunds, 1930, showing dates of list and filing; name of taxpayer; assessed valuation of property; and amounts of horizontal increase, payments, and refund.
- xliii. Receipts issued by road supervisors to taxpayers for work performed on roads in lieu of taxes, 1828-94, showing date, number, nature, and amount of receipt; and names of taxpayer, taxing unit, and road supervisor.

- xliv. Statements of omitted tax assessments, showing dates of statement and regular assessment; names of taxpayer and taxing unit; location, description, and assessed valuation of property; and amount of omitted tax assessment.
- xlv. Township trustees' reports to auditor of road taxes paid and delinquent, 1883-1923, showing dates of report and filing; report number; names of taxpayer and taxing unit; and amounts of taxes assessed, paid, and delinquent.
- xlvi. Township assessors' reports to auditor of dog taxes collected, 1893-1923, showing dates of report and filing; names of taxpayer, assessor, and township; and amount of collection.
- xlvii. Township assessors' statistical reports to auditor of farms and farm products, 1856-57, showing dates of report and filing; name of farm owner or operator; farm acreage; number of acres tillable, woodlands, pasture, and wastelands; and value and quantity of stock and farm products produced, sold, and on hand.
- xlvi. Treasurer's receipts issued for money received other than taxes, showing date, number, nature, and amount of receipt; and names of payer and fund.

374. [OLD-AGE ASSISTANCE], June 1936-. 10 f. b.

Copies of old-age award certificates, showing dates of certification and filing, name and address of recipient, application code and serial number, and amount of monthly award. Arr. num. by application code and serial nos. No index. Hdw. 11 x 4 x 13. Aud. off.

375. ENUMERATION OF WHITE AND COLORED MALE INHABITANTS, 1895, 1901, 1907, 1913, 1919, 1925, 1931, 1937. 80 vols.

Sexennial enumeration of white and colored male inhabitants in county over 21 years of age, showing date of enumeration; name, address, age, and color of male; name of taxing unit; and register number. Arr. alph. by names of males. No index.

* Hdw. 75 pp. 14 x 8 x ½. 39 vols., 1895, 1901, 1907, 1913, attic stor. rm.; 41 vols., 1919, 1925, 1931, 1937, aud. rec. rm.

MAPS

376. PLAT OF CITIES OF LAFAYETTE AND WEST LAFAYETTE, 1935. 2 vols.

Plats of cities of Lafayette and West Lafayette, showing

names of property owners and additions; township, section, and range lines and numbers; names and course of streets; and dimensions of lots. Arr. by names of additions, thereunder num. by lot nos. Indexed alph. by names of additions. Hand drawn. 100 pp. 24 x 36 x 1½. Aud. rec. rm.

377. SECTIONAL MAP, 1935. 8 pages.

Sectional maps of Lafayette and West Lafayette, showing names and course of streets, railways, and rivers; lot and state road numbers and boundaries. Drawn by A. S. Jamison, Lafayette, Indiana. Black and white. No scale given. 30 x 36. Aud. rec. rm.

XXXIII. REGISTRATION OFFICER

LEGAL STATUS

The clerk of the circuit court serves ex officio as the registration officer of Tippecanoe County, under the mandatory provisions of an act of 1933, as amended in 1935.¹

The registration officer may appoint as many deputy registration officers for the county as may be necessary. They are selected, as nearly as practicable, in equal numbers, from the two major political parties, on the written recommendation of the county chairman of each party. They receive a certificate of appointment which they must keep with them when about their official duties, and must take an oath administered by the clerk of the circuit court. The clerk of each city and town in the county is an ex officio deputy registration officer. A list of all deputy registration officers is kept in the office of the clerk of the circuit court, and is open to public inspection. All deputy registration officers act under the direction, supervision, and authority of the clerk of the circuit court. The appointed deputies may be removed from office by the clerk at any time.²

For each registration blank or transfer of registration which the clerk of the circuit court fills out and executes, he receives compensation in an amount (fixed by the board of county commissioners) not exceeding 4 cents. Each deputy registration officer receives compensation in an amount

¹ Acts 1933, 1935; Burns, 1940 suppl., 29-306; Baldwin, 1935 suppl., 7304.

² *Ibid.*

(fixed by the board of county commissioners) not exceeding 5 cents for each registration blank or transfer of registration which he delivers, properly filled out and executed, to the clerk of the circuit court. The board of county commissioners authorizes reasonable compensation to the clerk of the circuit court for the additional services rendered by him as registration officer.³

The constitution prescribes the qualifications of voters.⁴ An amendment of the constitution in 1881 directed the general assembly to provide for the registration of all persons entitled to vote, and an amendment in 1926 authorized, but did not require, such registration laws.⁵

Many laws for registration have been enacted. An act of 1867, establishing a township board of registry, consisting of the township trustee and two freeholders appointed by the board of commissioners,⁶ was repealed in 1869.⁷ Acts of 1889⁸ and 1891,⁹ providing for registration in the office of the clerk of the circuit court, were declared unconstitutional in 1890¹⁰ and 1892,¹¹ respectively. An act of 1911, providing for a precinct registration board, consisting of a registration inspector (appointed by the board of commissioners) and two registration clerks (appointed by the registration inspector),¹² was repealed in 1917.¹³ An act of 1917, creating a board of registration commissioners (generally called the "registration board"), consisting of the clerk of the circuit court and two qualified electors appointed by him (one from each of the two major political parties),¹⁴ was repealed in 1919.¹⁵ An act of 1919, creating precinct registration boards,¹⁶ was amended by an act

³ Acts 1933, 1935; Burns, 1940 suppl., 29-306, 29-329; Baldwin, 1935 suppl., 7304, 7327.

⁴ Const. 1851, art. 2, sec. 2.

⁵ *Ibid.*, sec. 14 (as amended in 1881 and 1926).

⁶ Acts 1867, ch. 51, sec. 2.

⁷ Acts 1869 (Spec. Sess.), ch. 31, sec. 1.

⁸ Acts 1889, ch. 87, sec. 13.

⁹ Acts 1891, ch. 144, sec. 1.

¹⁰ *Morris v. Powell*, 125 Ind. 281, 25 N. E. 221 (1890).

¹¹ *Brewer v. McClelland*, 144 Ind. 423, 32 N. E. 299 (1892).

¹² Acts 1911, ch. 150, secs. 3-15.

¹³ Acts 1917, ch. 139, sec. 47.

¹⁴ *Ibid.*, sec. 4.

¹⁵ Acts 1919, ch. 150, sec. 1.

¹⁶ *Ibid.*, ch. 186, sec. 4.

of 1925, creating a registration board consisting of the auditor and a person of opposite political faith appointed by him;¹⁷ and both acts were repealed in 1927.¹⁸ Acts of 1933 and 1935 established the present system of registration.¹⁹ There was no registration system from 1869 until 1889, 1892 until 1911, and 1927 until 1933.

FUNCTIONS AND RECORDS

Registration of all voters is a requirement for voting at any general election, primary election, city election, or any special election in which all qualified voters of the state may participate. Such registration must be made at least 29 days before the election.²⁰ On proper application every person is entitled to register for voting in the precinct in which he resides, provided such person (a) will be at least 21 years old at the next ensuing general election or city election, (b) is a citizen of the United States, and (c) will, at the time of such election (if he continues to reside in the same ward or precinct), have resided in the state 6 months, in the township 60 days, and in the ward or precinct 30 days.²¹

The registration officer has full charge and control of the registration of the voters and provides all the necessary books and supplies.²² The deputy registration officers may register voters at such places within the county as the clerk of the circuit court shall designate and which will be deemed most convenient to large members of voters without reference to precincts.²³ They can administer all oaths required by the registration laws.²⁴ Every voter who desires to register must execute an affidavit before a registration official

¹⁷ Acts 1925, ch. 138, sec. 1.

¹⁸ Acts 1927, ch. 195, sec. 1.

¹⁹ Acts 1933, ch. 178. Acts 1935, ch. 221.

The 1933 act was held constitutional. *Blue v. State ex rel. Brown*, 206 Ind. 98, 188 N. E. 583 (1934).

²⁰ Acts 1933; Burns 29-301, 29-307, 29-335; Baldwin 7299, 7305, 7333. Acts 1933, 1935; Burns, 1940 suppl., 29-336; Baldwin, 1935 suppl., 7334.

²¹ Acts 1933; Burns 29-328; Baldwin 7326.

²² Acts 1933; Burns 29-306, 29-309; Baldwin 7304, 7307.

Manner of registering. Acts 1933; Burns 29-308 to 29-313; Baldwin 7306 to 7311.

Penalty for false statement, false signature, or violation of registration law. Acts 1933; Burns 29-339; Baldwin 7337.

²³ Acts 1933, 1935; Burns, 1940 suppl., 29-311; Baldwin, 1935 suppl., 7309.

²⁴ Acts 1933, 1935; Burns, 1940 suppl., 29-306; Baldwin, 1935 suppl., 7304.

setting forth the required information pertaining to his qualifications as a voter.²⁵

The "official registration books" consist of the original affidavits of registration²⁶ and constitute a permanent registration record. The clerk also keeps a duplicate set of these affidavits.²⁷ The clerk, not later than 10 days before the election, prepares typewritten or photostatic copies of the registration list of each precinct in the county, and delivers one copy to the county chairman of each of the two major political parties. Two copies of the list are delivered to each election inspector, as a part of the sealed package of election supplies, to be used at the polls on election day. Other copies may be publicly inspected at the office of the clerk as soon as they are completed.²⁸ Registration supplies and the original affidavits of registration are delivered by the clerk to the election inspectors for use at the voting places on election day, and are returned to the clerk when the precinct officials complete their duties.²⁹

Except as hereinafter otherwise stated, any voter whose name was placed on the registration books of any precinct in this state after May 21, 1933 while such voter was a resident of that precinct is not required to register again, so long as (a) he continues to reside in the same county and precinct in which he is registered and (b) is not disfranchised for any cause prescribed by the laws of the state and (c) his registration is not canceled.³⁰ The clerk will cancel the registration of any voter who requests such cancellation.³¹

On a change of residence within the county, any registered voter may cause his registration to be transferred to his new address by sending a transfer to the clerk or by applying in person to the clerk for such transfer. If a voter changes his residence from the county in which he is registered to some other county, he must register in the proper precinct of the county to which he has moved and sign a

²⁵ Acts 1933; Burns 29-313; Baldwin 7311.

²⁶ Acts 1933; Burns 29-316; Baldwin 7314.

²⁷ Acts 1933; Burns 29-302, 29-315; Baldwin 7300, 7313.

²⁸ Acts 1933, 1935; Burns, 1940 suppl., 29-317; Baldwin, 1935 suppl., 7315.

²⁹ Acts 1933; Burns 29-316, 29-331; Baldwin 7314, 7329.

³⁰ Acts 1933; Burns 29-303, 29-308; Baldwin 7301, 7306. Information obtained from Fred

C. Gause, member of state board of election commissioners, on December 10, 1940, by William E. Chambers.

³¹ Acts 1933; Burns 29-324, 29-327; Baldwin 7322, 7325.

printed form authorizing the cancelation of the previous registration. Within 15 days thereafter the clerk of the latter county forwards this document to the clerk of the former county, who cancels the previous registration.³²

When the address of a voter (at which the voter continues to reside) is transferred to another precinct by a change of precinct boundaries or by creation of a new precinct, the clerk must transfer the voter's registration accordingly, and it is not necessary for the voter to apply for such transfer.³³

If the clerk of the circuit court mails to a registered voter, at his registered address, a notice stating that the clerk has received information (specifying the source thereof) that the voter has moved away from the county, precinct, or address at which he is registered, the registration of the voter will be canceled unless the voter applies for a continuance of registration within 30 days after the mailing of the notice.³⁴

If a voter's name is changed by marriage or by court order, the voter's previous registration cannot serve as a basis for voting unless before receiving a ballot the voter files a verified statement setting forth the name under which such voter is registered and the name of such voter as changed. This statement may be filed with the clerk of the circuit court on any day or with another member of the election board on election day.³⁵

Any voter of the county or city may challenge the registration of any registered voter of such county or city by submitting an affidavit to the clerk of the circuit court, not later than 2 weeks before any primary election, general election, or city election. This affidavit must state that such voter is not qualified to vote in the precinct in which he is registered and must specify reasons why such challenged voter is disqualified. The clerk then mails to the challenged voter, at his registered address, a notification of such challenge. In order to vote at such election the challenged voter must take an oath as required by law for voters challenged at an election. The oath may be taken before the clerk within 7 days after mailing the notice or may be taken before the election inspector at the election.³⁶

³² Acts 1933, 1935; Burns, 1940 suppl., 29-314; Baldwin, 1935 suppl., 7312.

³³ Acts 1933; Burns 29-318, 29-319; Baldwin 7316, 7317.

³⁴ Acts 1933; Burns 29-326, 29-327; Baldwin 7324, 7325.

³⁵ Acts 1933, 1939; Burns, 1940 suppl., 29-330; Baldwin, 1939 suppl., 7328.

³⁶ Acts 1933; Burns 29-325, 29-327; Baldwin 7323, 7325.

During the month of January following such general election the clerk must examine the registration books of each precinct and must note the names of all voters who have not voted within a period of 2 years. The clerk must then mail to each such voter, at his last known address, a notice on a printed form prescribed by law. The registration of any such voter will be canceled unless the voter applies for reinstatement of registration within 30 days after the mailing of such notice.³⁷

It is the duty of the registration officer to check the registration lists continually for deceased and disfranchised voters. Lists of deceased voters are obtained from local health officers, and the clerk prepares a list of all disfranchised voters.³⁸

If the board of county commissioners determines that the registration books of any precinct have been destroyed or mutilated or are inaccessible or are for any other reasonable cause unfit to be used, a new registration must be conducted in that precinct and every voter residing in that precinct must register.³⁹

The expense of the preparation of registration is paid out of the general fund of the county treasury, as directed by the board of county commissioners, after appropriation by the county council. The expense of preparing lists of registered voters for use in a city election is paid by the city, after appropriation by its common council.⁴⁰

All forms, blanks, records, and other supplies used in the registration of voters are prescribed by the state board of election commissioners for the purpose of uniformity in the registration records of the state.⁴¹

378. [REGISTRATION FILES], 1934-. 480 f. d. (labeled by contained letters of alphabet).

Permanent registration file of all qualified voters in county, showing date of registration; names of township, voter, and registration officer; age, sex, place of birth, and address of voter; length of residence in state, county, precinct, and ward; and registration, ward, and precinct numbers. Arr.

³⁷ Acts 1933; Burns 29-320; Baldwin 7318.

³⁸ Acts 1933; Burns 29-321, 29-322, 29-327; Baldwin 7319, 7320, 7325.

³⁹ Acts 1933; Burns 29-304; Baldwin 7302.

⁴⁰ Acts 1933; Burns 29-305; Baldwin 7303.

⁴¹ Acts 1933; Burns 29-334; Baldwin 7332.

alph. by names of voters. No index. Typed. 1 x 7 x 30. Clk. rec. rm.

379. CANCELLATION FILES, 1934-. 7 f. b.

Canceled registration cards, showing information as in entry 378. Arr. alph. by names of voters. No index. Hdw. 6 x 8 x 12. Clk. rec. rm.

380. REGISTER OF NOTICE TO BECOME A VOTER, 1890-92. 1 vol.

Register of intention to become a qualified elector, showing date of notice; name, address, and age of elector; name of township, town, or city; and ward and precinct numbers. Arr. chron. by dates of notices. Indexed alph. by names of electors. Hdw. 300 pp. 16 x 12 x 2. Clk. rec. rm.

381. REGISTER OF NOTICE TO HOLD RESIDENCE, 1890-1910. 1 vol.

Record of notices of voters whose duties require their absence from state but retain residence in county as legal voting place, showing date of notice; name, age, and address of elector; name of township; and ward and precinct numbers. Arr. alph. by names of electors. No index. Hdw. 300 pp. 16 x 12 x 2. Clk. rec. rm.

382. LIST OF VOTERS, 1868. 1 vol.

Register of voters of Fairfield Township, showing date of poll, and name and address of voter. Arr. alph. by names of voters. No index. Hdw. 150 pp. 12 x 9 x 1. Recr. rec. rm.

383. PRECINCT MAPS, 1934. 2 maps.

Political maps of Lafayette and West Lafayette used for registration purposes, showing ward and precinct numbers and divisions; and names of streets, public buildings, manufacturing concerns, and institutions. Drawn by Claude M. Draper, Lafayette, Indiana. Black and white. No scale given. 36 x 30. Clk. rec. rm.

XXXIV. BOARD OF PRIMARY ELECTION COMMISSIONERS

LEGAL STATUS

The board of primary election commissioners has existed in Tippecanoe County ever since 1915 under the mandatory requirements of an act of 1915. The board is composed of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties,

nominated by their respective county chairmen).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof during the preceding year, must reside within the county after their appointment,² must serve as members of the county board of canvassers and county board of election commissioners during the calendar year in which they were appointed,³ must not hold any other appointive or elective public office,⁴ and must take an oath to support the State and Federal Constitutions and faithfully discharge their duties.⁵ Each member of the board is allowed \$200 for his services at any primary election.⁶

For sufficient legal grounds any member of the board of primary election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person, and such removal is subject to review by the supreme court.⁷ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁸ A vacancy in the office of an appointed member is filled through appointment by the clerk of the circuit court.⁹

Before 1907 nominations were strictly a party affair. At first candidates were proposed by a mass meeting, or by an informed caucus which could be a meeting of all the voters of the party in the precinct or other political units. Out of the latter developed the party convention—an assembly

¹ Acts 1915, 1917; Burns 29-504; Baldwin 7190. The amendment of 1917 merely added a compensatory provision which was superseded by an act of 1935. See footnote 6 herein.

² Const. 1851, art. 6, secs. 4, 6.

³ Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "County Board of Canvassers" and "County Board of Election Commissioners."

⁴ Acts 1915, 1917; Burns 29-512; Baldwin 7198.

⁵ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

⁶ Acts 1915, 1917; Burns 29-504; Baldwin 7190. Acts 1935; Burns, 1940 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

⁷ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁸ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

For vacancy in the office of clerk, see the essay entitled "Clerk of the Circuit Court."

of official delegates chosen by the electors of the party at primary elections.¹⁰

Indiana was one of the first states to adopt the primary election as a means of choosing candidates. The law of 1889, which instituted the Australian ballot system, recognized the right of a political party to hold a primary election, under the control of the chairman who certified the names of the nominees to the county board of election commissioners.¹¹

An act of 1901, applicable to all political parties casting 10 percent of the total vote at the preceding general election, provided for the organization of political parties and the holding of two primary elections—one for precinct committeemen, and one for direct nomination of candidates or for election of delegates to a nominating convention. The precinct committeemen elected at the first primary election determined whether the party candidates should be nominated at a primary election or by a delegate convention. For a primary election the party chairman was required to fix the date thereof and deliver to the county board of election commissioners the names of the candidates proposed by petition. This board was required to prepare the primary ballot. No two political parties could hold their primaries at the same time or place. Returns were made to the party board of primary election commissioners. This board declared the nominees of the party, and the chairman of the board certified their names to the county board of election commissioners.¹²

An act of 1907 prescribed a direct primary election, under the supervision of a county board of primary election commissioners, for the nomination of party candidates for all county and township offices. The act was mandatory in each county containing cities having a population of 36,000 or over, and was optional in other counties. This board consisted of the same membership as at present and its members acted as election commissioners at the general election. This primary election included all political parties casting 10 percent of the total vote at the preceding general election, and was conducted by bipartisan precinct election boards paid from county funds.¹³

¹⁰ Alma Sickler Bender, *Why Go Back? . . . from the Direct Primary to the Convention System of Nomination* (Indianapolis, 1930), 21.

¹¹ Acts 1889, ch. 87, secs. 17, 18, 26.

¹² Acts 1901, ch. 219, secs. 1-4, 6-11, 25.

¹³ Acts 1907, ch. 282, secs. 1, 2, 6, 10-15, 22, 57.

FUNCTIONS AND RECORDS

The present primary election law is mandatory as to each political party casting in the county for its candidate for secretary of state 10 percent of the aggregate vote cast in the county for all candidates for secretary of state at the last preceding general election. This law provides for the nomination of congressional, county, township, and city candidates and the election of precinct committeemen and state convention delegates of all such political parties, all in one primary election held biennially, at the same time and place, on the 1st Tuesday after the 1st Monday in May, in the even-numbered years.¹⁴

The board of primary election commissioners supervises primary elections. It prepares and distributes all ballots used in the county (except for town primaries)¹⁵—the names of candidates being arranged thereon in alphabetical order.¹⁶ At all primary elections the Australian ballot is used. It is made up of the printed tickets of the several political parties qualified for participation in the election. The tickets of each party are on paper of a color not used for the tickets of the other parties, but all tickets are uniform in size.¹⁷

Between 30 and 60 days before any primary election the declarations of candidacy for the offices of United States Representatives, state senators and representatives, and judicial officers (including the judge of the circuit court, prosecuting attorney, and justices of the peace) are filed by the candidates with the secretary of state and are certified by him to the clerk of the circuit court; and during the same time the declarations of candidacy for other offices (except town offices and those voted on by the voters of the whole state) are filed by the candidates with the clerk of the circuit court. Nominations for these offices are made at the primary election.¹⁸ Nominations for delegates to

¹⁴ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1925, 1929; Burns 29-511, 29-512; Baldwin 7196, 7197. Acts 1915, 1939; Burns, 1940 suppl., 29-532; Baldwin, 1939 suppl., 7218.

"Courts of equity have no jurisdiction to interfere in the purely political activities of political party organizations." *State ex rel. Democratic Central Committee v. Superior Court*, 214 Ind. 322, 15 N. E. (2d) 379 (1938).

¹⁵ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

¹⁶ Acts 1915, 1937; Burns, 1940 suppl., 29-515; Baldwin, 1937 suppl., 7201.

¹⁷ Acts 1915, 1917; Burns 29-504, 29-514; Baldwin 7190, 7200.

¹⁸ Acts 1915; Burns 29-501; Baldwin 7187. Acts 1915, 1917, 1933, 1935; Burns, 1940 suppl., 29-513; Baldwin, 1935 suppl., 7199. Acts 1915, 1931, 1935; Burns, 1940 suppl., 29-516; Baldwin, 1935 suppl., 7202. Acts 1915, 1929; Burns 29-531; Baldwin 7217. Acts 1933; Burns 29-1807; Baldwin 11639.

the state conventions of the respective political parties are made by petitions filed with the clerk at least 30 days before the primary election. These delegates are elected at the primary election.¹⁹

Primary elections are conducted by the following officials in each precinct: One election inspector, two election judges, two poll clerks, two election sheriffs, and one pollbook holder for each political party participating in the election. Their qualifications and duties are the same as those of the corresponding precinct officials for general elections. The inspector, judges, and clerks are appointed as follows: The party casting the highest vote in the county for secretary of state at the last general election appoints the inspector, the party casting the next highest vote appoints one election judge, and so on in rotation among all parties participating in the election. The sheriffs and pollbook holders are appointed in the manner in which they are appointed for general elections. Each of these officials except pollbook holders is allowed \$3 per day for his services rendered in connection with a primary election. The pollbook holders are paid by their respective political parties in a sum not to exceed \$3 per day.²⁰ The board of primary election commissioners may employ all necessary clerical assistants.²¹

The statutory provisions governing the manner of conducting general elections apply to all primary elections.²² All expenses of conducting primary elections are paid from public funds.²³

Certificates and petitions of nominations, ballots (cast and uncast), and tally papers at primary elections are filed in the office of the clerk of the circuit court where they are preserved for 6 months and are then destroyed, unless litigation requires preservation for a longer time.²⁴

The prosecuting attorney is a judicial officer. State *ex rel.* Freed v. Circuit Court, 214 Ind. 152, 14 N. E. (2d) 910 (1938); State *ex rel.* Spencer v. Criminal Court, 214 Ind. 551, 15 N. E. (2d) 1020 (1938).

¹⁹ Acts 1915, 1939; Burns, 1940 suppl., 29-532; Baldwin, 1939 suppl., 7218.

²⁰ Acts 1915, 1917; Burns 29-505, 29-507, 29-519; Baldwin 7191, 7193, 7205. Acts 1929, 1933; Burns 29-804 to 29-807; Baldwin 7093 to 7096. Finerty v. Bryan, 214 Ind. 570, 16 N. E. (2d) 882 (1938). See the essay entitled "County Board of Election Commissioners."

²¹ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

²² Acts 1915; Burns 29-556, 29-559; Baldwin 7242, 7244.

²³ Acts 1915; Burns 29-534; Baldwin 7220. Acts 1933; Burns 29-1805; Baldwin 11637.

²⁴ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1204; Baldwin 7456. Acts 1911; Burns 29-2510; Baldwin 7447.

384. [PRIMARY ELECTION RECORD], 1916-. In Election Record, entry 387.

Minutes of meeting of board of primary election commissioners, showing information as in entry 387-iii.

385. [RECORD OF ABSENT VOTERS' BALLOTS, PRIMARY], 1918-.

In Record of Absent Voters' Ballots, entry 388. Record of absent voters ballots in primary elections, showing information as in entry 388.

XXXV. COUNTY BOARD OF CANVASSERS

LEGAL STATUS

The county board of canvassers has existed in Tippecanoe County ever since 1905 under the mandatory requirements of an act of 1905. The county board which controls the holding of an election (board of primary election commissioners or county board of election commissioners) must also serve as the county board of canvassers at that election with no additional remuneration.¹ The board elects its own chairman, and the clerk of the circuit court acts as its clerk.²

Before 1843 the election judges and inspectors canvassed the votes and certified the results of the election.³ The board of canvassers, established in 1843, consisted of the inspectors from the several townships, who selected one of its members as chairman. The clerk of the circuit court served as clerk. The board was continued until 1905.⁴

FUNCTIONS AND RECORDS

Each precinct board of election,⁵ after closing the polls in its precinct,⁶ views the ballots cast in that precinct;

¹ Acts 1905, 1927; Burns 29-1401; Baldwin 7377. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

The amendment of 1927 merely added a provision applicable only to Marion County.

² Acts 1905; Burns 29-1402; Baldwin 7378.

³ Acts 1816-17, ch. 9, secs. 11, 12. Acts 1817-18 (general), ch. 15, secs. 11, 12. Rev. L. 1824, ch. 35, secs. 11, 12. Rev. L. 1831, ch. 32, secs. 11, 12. Rev. Stat. 1838, ch. 32, secs. 13, 14.

⁴ Rev. Stat. 1843, ch. 5, secs. 45-47. 1 Rev. Stat. 1852, ch. 31, secs. 31-33. Acts 1881 (Spec. Sess.), ch. 47, sec. 38. Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁵ The organization of the precinct boards is discussed in the essays entitled "Board of Primary Election Commissioners" and "County Board of Election Commissioners."

⁶ Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

counts those ballots which are legal; rejects those ballots which are illegal; marks on each ballot the word "counted" or the words "not counted"; makes notations as to rulings on protests; lists the number of votes counted in favor of each candidate; lists the number of votes counted for and against proposed constitutional amendments and other questions submitted to the voters for decision; and transmits in sealed bags to the county board of canvassers all ballots cast, ballots uncast, lists, tally papers, memoranda, and certificates.⁷

The members of the county board of canvassers are required to assemble at 6 p. m. on the day of each election, in the courtroom of the circuit court; to canvass and estimate the certificates, poll lists, and tally papers returned by each precinct board of election in the county;⁸ to compare and examine the papers entrusted to it; to aggregate and tabulate therefrom all votes cast in the county; and to declare in a certified statement the candidates nominated or elected for the county, and each city and township thereof, and the determination of any proposed constitutional amendment or other question submitted to the voters.⁹

In case of a tie vote for any office, the board declares that no person was elected for that office; and the clerk must certify the facts to the tribunal or officer required to fill vacancies in such office or to issue a writ of election to fill the office, as the case may require.¹⁰ In case of a

⁷ Primary elections. Acts 1915, 1917; Burns 29-525; Baldwin 7211.

General elections. Acts 1897, 1901, 1909; Burns 29-1301; Baldwin 7147.

⁸ Acts 1905, 1927; Burns 29-1401; Baldwin 7377.

⁹ Acts 1905; Burns 29-1404, 29-1405, 29-1407; Baldwin 7380, 7381, 7383. *Moore v. Kessler*, 59 Ind. 152 (1877).

Duty to disregard ballots improperly marked by voters. *Craney v. Traylor*, 214 Ind. 542, 16 N. E. (2d) 845 (1938).

Legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1503 to 29-1505; Baldwin 7180 to 7182.

Judges, prosecuting attorney, state officers, and federal officers. Acts 1881 (Spec. Sess.); Burns 26-1506 to 29-1509; Baldwin 7183 to 7186.

Constitutional amendments. Const. 1851, art. 16, secs. 1, 2. Acts 1889; Burns 29-1201, 29-1202; Baldwin 7259, 7258. Acts 1911; Burns 29-1203 to 29-1207; Baldwin 7253 to 7257. *In re Todd*, 208 Ind. 163, 193 N. E. 865 (1935).

¹⁰ Acts 1905; Burns 29-1406; Baldwin 7382.

Tie vote for state legislators in districts composed of more than one county. Acts 1881 (Spec. Sess.); Burns 29-1505; Baldwin 7182.

tie vote, a city office is filled by appointment,¹¹ a township office is filled by lot,¹² and other offices are filled by special elections.¹³

In case of a disagreement among the members of the county board of canvassers as to how the vote of any precinct shall be counted, the matter in dispute must be reported immediately to the judge of the circuit court for immediate determination.¹⁴

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff executes all process and orders directed to him by the board.¹⁵

The board of canvassers employs necessary clerical assistants for the proper canvassing and tabulating of votes. Not more than one-half of the clerks employed can be from the same political party, and their compensation must not exceed \$1 per hour.¹⁶

The canvass of votes in primary¹⁷ and special¹⁸ elections, including votes cast for city¹⁹ and township officers,²⁰ is made in the same manner as in the general election.

The ballots cast, ballots uncast, certificates, statement of all votes tabulated, canvass sheets, pollbooks, and tally papers are delivered to the clerk of the circuit court and filed and preserved by him in his office, open to the inspection of any legal voter. These are destroyed after 6 months unless litigation requires longer preservation.²¹

386. [CERTIFICATE OF BOARD OF CANVASSERS], 1894-. In Election Record, entry 387.

Copies of certificates of votes cast for candidates for state offices, showing dates of election and board of canvassers' meeting, names of candidate and office, party affiliation, and number of votes received by each candidate.

¹¹ Acts 1905, 1909; Burns 48-1246; Baldwin 11424.

¹² Acts 1933; Burns 29-1903; Baldwin 7252.

¹³ Acts 1881 (Spec. Sess.); Burns 29-1505, 29-1701; Baldwin 7182, 7249.

¹⁴ Acts 1905; Burns 29-1409; Baldwin 7385.

¹⁵ Acts 1905; Burns 29-1408; Baldwin 7384.

¹⁶ Acts 1920 (Spec. Sess.); Burns 29-913; Baldwin 7158.

¹⁷ Acts 1915, 1917; Burns 29-525; Baldwin 7211. Acts 1915; Burns 29-560; Baldwin 7245.

¹⁸ Acts 1839; Burns 29-1611; Baldwin 7169. Acts 1881 (Spec. Sess.); Burns 29-1704; Baldwin

7249.

¹⁹ Acts 1839, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1803, 29-1807; Baldwin

11635, 11639.

²⁰ Acts 1933; Burns 29-1903; Baldwin 7252.

²¹ Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1905; Burns 29-1404; Baldwin 7380.

XXXVI. COUNTY BOARD OF ELECTION COMMISSIONERS

LEGAL STATUS

The county board of election commissioners has existed in Tippecanoe County ever since 1889 under the mandatory requirements of an act of 1889. The board consists of the clerk of the circuit court and two persons appointed by him (one from each of the two major political parties, nominated by their respective county chairmen).¹ The appointed members must be electors of the county at the time of their appointment, must have been inhabitants thereof throughout the preceding year, must reside within the county after their appointment,² must serve as members of the county board of canvassers, and must take an oath to support the State and Federal Constitutions and faithfully discharge their duties.³ Each member of the board is allowed \$200 for his services at any general or special election.⁴

For sufficient legal grounds any member of the county board of election commissioners may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.⁵ If any member is convicted of a felony the judgment of conviction must declare his office vacant.⁶ The clerk of the circuit court fills vacancies as to members appointed by him.⁷

With the organization of Tippecanoe County in 1826⁸ the

¹ Acts 1889; Burns 29-1002; Baldwin 7109.

² Const. 1851, art. 6, secs. 4, 6.

³ *Ibid.*, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. See the essays entitled "Board of Primary Election Commissioners" and "County Board of Canvassers."

For the eligibility, election, term, oath, and bond of the clerk of the circuit court, see the essay entitled "Clerk of the Circuit Court."

⁴ Acts 1935; Burns, 1940 suppl., 29-1014; Baldwin, 1935 suppl., 7109-1. *Opinions of the Attorney General of Indiana, 1935*, p. 320.

Mandamus to compel appropriation for compensation. *Blue v. State ex rel. Powell*, 210 Ind. 486, 1 N. E. (2d) 122 (1936).

⁵ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

⁶ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

⁷ Acts 1915, 1917; Burns 29-504; Baldwin 7190.

See the essay entitled "Clerk of the Circuit Court" for vacancy in the office of clerk.

⁸ Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act).

board of county commissioners laid off townships⁹ and appointed an inspector of election in each.¹⁰ Blank forms of pollbooks and election returns were delivered by the sheriff to these inspectors before the election.¹¹ After 1831 the inspectors were elected by the voters of the township;¹² and after 1852 the clerk of the circuit court delivered to the sheriff a certificate showing which offices were to be filled at the election. The sheriff posted a copy of this certificate at each usual place of holding elections, published it in some newspaper of the county, and delivered a copy to each township clerk (to be delivered to the township trustee)¹³ or to the trustee.¹⁴ The board of county commissioners designated the precincts,¹⁵ and furnished supplies (including blank forms and ballot boxes but not ballots).¹⁶ After 1881 the auditor furnished printed forms (but not ballots)¹⁷ and the board of county commissioners furnished the ballot boxes.¹⁸ Before 1889 voting was by ballot furnished by the voter.¹⁹ The president of the board of township trustees from 1853 to 1859²⁰—the township trustee since 1859—served ex officio as inspector of elections²¹ in the precinct in which he resided,²² and the board of county commissioners appointed inspectors in all additional precincts.²³ The election board of the precinct was composed

⁹ Acts 1817-18 (general), ch. 17, sec. 2.

¹⁰ Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1; ch. 17, sec. 3. Rev. L. 1824, ch. 35, sec. 1.

¹¹ Acts 1816-17, ch. 9, sec. 1. Acts 1817-18 (general), ch. 15, sec. 1. Rev. L. 1824, ch. 35, sec. 1.

¹² Rev. L. 1831, ch. 20, sec. 20.

¹³ 1 Rev. Stat. 1852, ch. 31, sec. 2.

¹⁴ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082.

¹⁵ 1 Rev. Stat. 1852, ch. 31, sec. 3. Acts 1881 (Spec. Sess.), ch. 47, sec. 8.

¹⁶ 1 Rev. Stat. 1852, ch. 31, secs. 11, 12.

¹⁷ Acts 1881 (Spec. Sess.), ch. 47, sec. 13.

¹⁸ *Ibid.*, sec. 18.

¹⁹ Const. 1816, art. 6, sec. 2. Const. 1851, art. 2, sec. 13. Acts 1816-17, ch. 9, secs. 6-8, 11. Acts 1817-18 (general), ch. 15, sec. 8. Rev. L. 1824, ch. 35, secs. 6-8, 11. Rev. L. 1831, ch. 32, secs. 6-8, 11. Rev. Stat. 1838, ch. 32, secs. 6-8, 13. Rev. Stat. 1843, ch. 5, secs. 30-33, 40, 41, 44. 1 Rev. Stat. 1852, ch. 31, sec. 17. Acts 1881 (Spec. Sess.), ch. 47, sec. 23.

²⁰ 1 Rev. Stat. 1852, ch. 31, sec. 3.

²¹ Acts 1859; Burns 65-105; Baldwin 16065. *Holmes v. Board of County Comrs.*, 78 Ind. App. 206, 135 N. E. 154 (1922).

²² Acts 1881 (Spec. Sess.), ch. 47, sec. 10.

²³ 1 Rev. Stat. 1852, ch. 31, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, sec. 11.

of the inspector, election judges, and poll clerks. The judges were appointed by the inspector, and the clerks were appointed by the inspector and judges.²⁴ After 1881 they were chosen from the two political parties casting the highest number of votes in the last preceding general election.²⁵

For special elections under the former local option liquor laws, there was authorized in the county from 1908 to 1917 a special election commission consisting of the county auditor and two freeholders, appointed by the board of commissioners, one appointee favoring and the other opposing the sale of liquors.²⁶

Indiana, in 1889, was one of the first states to adopt the Australian ballot—an official ballot printed at public expense by public officers and distributed at the polls by the election officers. The board of election commissioners was established to prepare, print, and distribute the ballots and otherwise administer the election laws of the county.²⁷

FUNCTONS AND RECORDS

The constitution fixes the date of general elections as the 1st Tuesday after the 1st Monday in November,²⁸ and an act of the general assembly provides that they be conducted biennially in the even-numbered years.²⁹ At least 20 days before the election the clerk of the circuit court makes a certificate stating which offices are to be filled at the election. Fifteen days before the election the sheriff delivers a copy of this certificate to each township trustee in the county, posts a copy at each usual place of holding such elections in the county, and causes the publication of a copy one time in a newspaper printed in the county.³⁰ The constitution further provides that all elections by the people must be by ballot.³¹ This provision does not prevent

²⁴ Acts 1817-18 (general), ch. 15, sec. 2. 1 Rev. Stat. 1852, ch. 31, sec. 4. Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁵ Acts 1881 (Spec. Sess.), ch. 47, secs. 11, 12.

²⁶ Acts 1908 (Spec. Sess.), ch. 2, secs. 5-7. Acts 1911, ch. 7, secs. 5-8. These laws were repealed by Acts 1917, ch. 4, sec. 40.

²⁷ Acts 1889, ch. 87, secs. 17, 18, 26.

²⁸ Const. 1851, art. 2, sec. 14 (as amended in 1881).

²⁹ Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081.

³⁰ Acts 1881 (Spec. Sess.); Burns 29-702; Baldwin 7082. *Parmater v. State ex rel. Drake*, 102 Ind. 90, 3 N. E. 382 (1884).

³¹ Const. 1851, art. 2, sec. 13.

Marking of ballots by voters. *Craney v. Traylor*, 214 Ind. 542, 16 N. E. (2d) 845 (1938).

the use of voting machines³² (to be provided by the board of county commissioners).³³

The board of county commissioners establishes the precincts³⁴ and provides all polling places, voting booths, chutes, and ballot boxes;³⁵ and the auditor furnishes blank pollbooks and other forms to the inspectors.³⁶

The county board of election commissioners supervises general elections.³⁷ The state board of election commissioners prepares and distributes to the county clerks the ballots for Federal offices, and for offices and questions to be voted on by the voters of the whole state. The county board of election commissioners prepares and distributes all other ballots used in the county (except for town elections).³⁸ Candidates nominated by convention or primary election by parties casting one-half of 1 percent of the total vote of the state at the last preceding general election, and whose nominations have been duly certified to the clerk of the circuit court, are placed on the ballot under their respective party emblems. Candidates' names may be placed on the ballot by the petition of the required number (one-half of 1 percent of the total vote cast in the last preceding general election in the county) of qualified electors.³⁹ Political parties may be barred from the ballot if they advocate the overthrow, by force or violence, of the local, state, or National Government. New parties must file, with the election commissioners in charge of the ballot or ballots on which they wish to appear, an affidavit declaring that they do not advocate such an overthrow.⁴⁰

³² Spickerman v. Goddard, 182 Ind. 523, 107 N. E. 2 (1914).

³³ Acts 1920 (Spec. Sess.); Burns 29-903; Baldwin 7148. Acts 1901, 1903; Burns 29-2404; Baldwin 7352.

³⁴ Acts 1889; Burns 29-801; Baldwin 7089. Acts 1920 (Spec. Sess.); Burns 29-801; Baldwin 7091.

³⁵ Acts 1920 (Spec. Sess.); Burns 29-909; Baldwin 7154. Acts 1897; Burns 29-1121; Baldwin 7135.

³⁶ Acts 1889; Burns 29-806; Baldwin 7097.

³⁷ Acts 1889; Burns 29-1116, 29-1117, 29-1119, 29-1120; Baldwin 7130, 7131, 7133, 7134. Acts 1903; Burns 29-2407; Baldwin 7355. Acts 1901; Burns 29-2410, 29-2426, 29-2428; Baldwin 7358, 7374, 7376.

³⁸ Acts 1889; Burns 29-1001 to 29-1003; Baldwin 7108 to 7110. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Acts 1889, 1891, 1907; Burns 29-1109; Baldwin 7124.

Ballot label for voting machines. Acts 1901; Burns 29-2410; Baldwin 7538.

³⁹ Acts 1897, 1919, 1933; Burns 29-1106; Baldwin 7120. Acts 1920 (Spec. Sess.); Burns 29-1107; Baldwin 7121. Board of Election Comrs. v. State *ex rel.* Sides, 148 Ind. 675, 48 N. E. 226 (1897); State *ex rel.* Garn v. Board of Election Comrs., 167 Ind. 276, 78 N. E. 1016 (1906).

⁴⁰ Acts 1935; Burns, 1940 suppl., 29-1015; Baldwin, 1935 suppl., 7120-1.

In each precinct there is a "precinct board of election" composed of one inspector and two election judges. The election is conducted by these boards. Each precinct board is assisted by two election sheriffs, two poll clerks, and (if necessary) two assistant poll clerks. No person is eligible to membership on a precinct board if he has a wager on the result of the election, or is a candidate or a relative of a candidate at that election, or is an elected or appointed public official. The township trustee is ex officio inspector in his own precinct. The other inspectors are appointed by the board of election commissioners on nominations made by the county chairman of the party casting the highest number of votes in the county for secretary of state in the preceding election. The election judges, sheriffs, poll clerks, and assistant poll clerks are of opposite political faith and are appointed by the board of election commissioners on nominations made by the county chairmen of the two major political parties.⁴¹ For their services at general elections the precinct election officials are compensated as follows: Each appointed inspector, \$8; each election judge, \$5; each poll clerk, \$5; each assistant poll clerk, \$5; and each election sheriff, \$3. The township trustee receives no compensation for his services as election inspector.⁴² Each political party may appoint one challenger and one pollbook holder for each precinct, and may pay each of them compensation not exceeding \$3. These employees receive no compensation from public funds.⁴³

Since 1933 city⁴⁴ and township⁴⁵ elections have been held at the time of the general election. They are under the supervision of the county board of election commissioners,⁴⁶ as are all special elections.⁴⁷

Elections are open from 6 o'clock in the forenoon until 4 o'clock in the afternoon, after which time the precinct election board may close the election in any precinct at any

⁴¹ Acts 1915, 1917; Burns 29-512; Baldwin 7198. Acts 1929, 1933; Burns 29-804; Baldwin 7093. Acts 1929; Burns 29-805 to 29-807; Baldwin 7094 to 7096.

⁴² Acts 1920 (Spec. Sess.), 1933; Burns 29-910; Baldwin 7155. *Holmes v. Board of County Comrs.*, 78 Ind. App. 206, 135 N. E. 154 (1922).

⁴³ Acts 1929; Burns 29-806; Baldwin 7095.

⁴⁴ Acts 1889, 1891; Burns 29-1612; Baldwin 7170. Acts 1933; Burns 29-1801; Baldwin 11632.

⁴⁵ Acts 1933, 1935; Burns, 1940 suppl., 29-1901; Baldwin, 1935 suppl., 7250.

⁴⁶ Acts 1933; Burns 29-1803; Baldwin 11635.

⁴⁷ Acts 1889; Burns 29-1611; Baldwin 7169. Acts 1881; Burns 29-1704; Baldwin 7249.

time when all the electors of that precinct have voted or when 15 minutes have passed without a vote having been cast in that precinct. Elections are open until 6 o'clock in the afternoon unless previously closed as aforesaid.⁴⁸ All pencils used in marking the ballots must be destroyed before the counting of ballots begins.⁴⁹

The board has full power to send for persons and papers and compel witnesses to testify concerning matters bearing on the proper discharge of the board's duties. The sheriff serves all process in county elections and obeys orders of the board.⁵⁰

Records of all general elections are placed in sealed bags and filed in the office of the clerk of the circuit court for preservation as provided by statute.⁵¹

387. ELECTION RECORD, 1890-. 2 vols.

Contains:

- i. Certificates of election pasted in volume, 1930-, showing date of election, names of candidates and office, term of office, and number of votes received for each candidate.
- ii. Instructions to operate voting machines, 1932-, showing candidates number and office, party lever, names of candidates, and general operating instructions.
- iii. Minutes of meetings of election commissioners, showing date and place of meeting, names of members present, business discussed, and action taken.
- iv. Notice of election, 1928-, showing date of election, names of candidates and office, and statement of election.
- v. Precinct maps, 1928-, showing names of township, precinct numbers, and location of precincts and voting places.

Also contains: [Primary Election Record], 1916-, entry 384; [Certificate of Board of Canvassers], 1928-, entry 386. Arr.

⁴⁸ Acts 1915; Burns 29-520; Baldwin 7206. Acts 1889, 1899; Burns 29-1103; Baldwin 7103.

⁴⁹ Acts 1915; Burns 29-1305; Baldwin 7457.

⁵⁰ Acts 1905; Burns 29-1403; Baldwin 7384.

⁵¹ Rev. L. 1824, ch. 35, sec. 14. Acts 1920 (Spec. Sess.); Burns 29-912; Baldwin 7157. Acts 1889; Burns 29-1009; Baldwin 7113. Acts 1915; Burns 29-1304; Baldwin 7456. Acts 1911, 1913, 1915; Burns 29-2508; Baldwin 7445. Acts 1911; Burns 29-2510; Baldwin 7447. State *ex rel.* Kollmeyer v. Baker, 204 Ind. 18, 182 N. E. 537 (1932).

num. by precinct nos., thereunder chron. by dates of elections. No index. Hdw. 500 pp. 18 x 12 x 9. 1 vol., 1890-1926, clk. rec. rm.; 1 vol., 1928-, clk. off.

388. RECORD OF ABSENT VOTERS' BALLOTS, 1918-. 1 vol., 1 f. d.

Record of absent voters' ballots in special and general elections, showing dates of receipt of application, mailing, and receipt of ballot by clerk; name and address of elector, name of township; and ward and precinct numbers. Also contains: [Record of Absent Voters' Ballots, Primary], entry 385. Arr. num. by precinct nos., thereunder chron. by dates of applications. No index. Hdw. Vol., 160 pp. 18 x 12 x 2; f. d., 7 x 18 x 15. 1 vol., 1918-22, attic stor. rm.; 1 f. d., 1923-, clk. rec. rm.

XXXVII. COUNTY BOARD OF EDUCATION

LEGAL STATUS

The county board of education has existed in Tippecanoe County ever since 1873 under the mandatory requirements of acts of 1873 and 1877. The board consists of the county superintendent of schools, the township trustees, and the president of the school board of each city and town in the county. Before 1877 all the school trustees of each city and town in the county were also included as members of the board.¹

Semiannual meetings of the board are held at the office of the county superintendent of schools on the 1st day of May and September, except that if such day is Sunday the meeting is held the next day. Other meetings may be held upon the call of the county superintendent. A majority of

¹ Acts 1873, 1877; Burns 28-801; Baldwin 5983. Acts 1905, 1915, 1919; Burns 28-1201; Baldwin 5962. *Opinions of the Attorney General of Indiana, 1933*, p. 551.

Section 28-801 aforesaid provides: "The county superintendent [of schools], the trustees of the townships and the chairman of the school trustees of each town and city of the county shall constitute a county board of education."

Section 28-1201 aforesaid provides that the common council of each city and the board of trustees of each town shall "elect three school trustees" and that "such trustees shall constitute the school board of the city or town" and that "they shall . . . organize by electing one of their number president, one secretary and one treasurer."

The cited opinion of the attorney general holds that the language "chairman of the school trustees of each town and city of the county" refers to the president of the town school board or city school board.

the board members constitutes a quorum. The county superintendent presides at the meetings and casts his vote in the same manner as the other members. The board elects a secretary from among its members.²

FUNCTIONS AND RECORDS

The county board of education considers the general needs of the public schools within the county (including the care of school property and the purchase of school furniture, books, maps, charts, and other supplies), and makes advisory regulations concerning the same (except as to matters expressly covered by law or by a regulation of the Indiana State Board of Education); directs the care and management of township libraries; and adopts textbooks for the schools in the county, except in cities. The state board of education has broad power to adopt textbooks which must be used in all the public schools in the state, but the county board may adopt supplementary textbooks on the same subjects. There are many curricular subjects on which textbooks are not adopted by the state board. No textbook can be changed by the county board of education within 6 years after its adoption, except by the unanimous vote of all the members of the board.³

The county board of education may purchase textbooks from publishers at the net wholesale or contract price and sell them to the pupils at cost, plus the cost of handling the books, not to exceed 20 percent of the cost price, or rent them to the pupils at an annual rental not to exceed 25 percent of the retail price.⁴

Annually the board may appoint a school attendance officer for the county, known as the "county attendance officer." From 1897 to 1913 he was known as the "truant officer." The county superintendent of schools must annually nominate some person to be appointed county attendance officer, and must perform the duties of that office if the board makes no

² Acts 1873, 1877; Burns 28-801; Baldwin 5983. Fassett A. Cotton, *Education in Indiana* (1934), p. 257.

³ *Ibid.* Acts 1889, 1909, 1917; Burns 28-601; Baldwin 6675. Information obtained from Floyd I. McMurray, state superintendent of public instruction, on February 2, 1940, by W. Davis Hamilton.

⁴ Acts 1921; Burns 28-614; Baldwin 6692. Acts 1935; Burns, 1940 suppl., 28-638; Baldwin, 1935 suppl., 6692-1.

such appointment.⁵ Each year the board selects one of its members to serve on the county board of tax adjustment.⁶

Formerly the board participated in the appointment of a county agricultural agent and approved the expenses of the agent.⁷

The secretary of the board keeps a complete record of its meetings and proceedings.⁸

389. BOARD OF EDUCATION MINUTES, 1887-. 2 vols. Title varies: Proceedings of County School Superintendent, 1887-1918, 1 vol.

Minutes of meetings of board of education, showing date and place of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. No index. Hdw. 398 pp. 16 x 11 x 2. Supt. off.

XXXVIII. COUNTY SUPERINTENDENT OF SCHOOLS

LEGAL STATUS

The office of county superintendent of schools has existed in Tippecanoe County ever since 1873 under the mandatory requirements of acts of 1873 and 1899.¹ The county superintendent of schools is elected for 4-year term by the township trustees and holds office until his successor is elected and qualified. The election is held in the auditor's office and the auditor acts as clerk of the election. In case of a tie vote the auditor casts the deciding vote.² To be eligible

⁵ Acts 1897, ch. 165, sec. 2. Acts 1899, ch. 244, sec. 2. Acts 1901, ch. 209, sec. 2. Acts 1913, ch. 213, sec. 4. Acts 1921, 1932 (Spec. Sess.); Burns 28-501; Baldwin 6693.

Traveling expenses of attendance officer. *Opinions of the Attorney General of Indiana, 1939*, p. 1 32.

⁶ Acts 1937; Burns, 1940 suppl., 64-310; Baldwin, 1937 suppl., 15897-4.

⁷ Acts 1913, ch. 24, sec. 12 (superseded by Acts 1937; Burns, 1940 suppl., 28-4911; Baldwin, 1937 suppl., 6457).

⁸ Information obtained from Floyd I. McMurray, state superintendent of public instruction, on February 2, 1940, by W. Davis Hamilton.

¹ Acts 1873, ch. 25. Acts 1899, ch. 143.

² Acts 1873, ch. 25, secs. 2-4, 6-8. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. State *ex rel.* Nebecker v. Sutton, 99 Ind. 300 (1884); State *ex rel.* Laughlin v. Porter, 113 Ind. 79, 14 N. E. 883 (1888); State *ex rel.* Williams v. Edwards, 114 Ind. 581, 16 N. E. 627 (1888); State *ex rel.* Drummond v. Dillon, 125 Ind. 65, 25 N. E. 136 (1890); State *ex rel.* Morris v. McFarland, 149 Ind. 266, 49 N. E. 5 (1898).

for this office a person must have had 5 years' successful experience as a teacher and must hold a first or second grade superintendent's license.³ The superintendent must post bond in the amount of \$5,000 (to be approved and filed by the auditor) and take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office.⁴

Statutes provide that the county superintendent of schools shall receive from the county a regular salary of \$2,360 per year, that his salary may be increased by the county council after request therefor by a majority of the township trustees,⁵ and that he is to be reimbursed for his traveling expenses not to exceed \$800 per year.⁶ The board of commissioners must provide and furnish an office for the county superintendent and allow and pay all costs incurred by him for postage, stationery, and records required in the performance of his official duties.⁷

The county superintendent of schools is a member and beneficiary of the Indiana State Teachers' Retirement Fund.⁸

A township trustee cannot participate in the election if he is a candidate for the office. *Horning v. State ex rel. Gamble*, 116 Ind. 458, 19 N. E. 151 (1888). *Opinions of the Attorney General of Indiana, 1933*, p. 229.

³ Acts 1927, ch. 142, sec. 1. Acts 1935; Burns, 1940 suppl., 28-701; Baldwin, 1935 suppl., 5933-1. Acts 1923; Burns 28-4209; Baldwin 5920.

Residence and citizenship. *State ex rel. Jeffries v. Kilroy*, 86 Ind. 118 (1882). *Opinions of the Attorney General of Indiana, 1907*, p. 163; 1929, p. 242; 1933, pp. 89, 236.

⁴ Const. 1851, art. 15, sec. 4. Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931. 1 Rev. Stat. 1852; Burns 49-104, 49-105, 49-120; Baldwin 13057, 13063, 13068.

⁵ Acts 1933; Burns 49-1004; Baldwin 7534. Acts 1933, 1939; Burns, 1940 suppl., 49-1014; Baldwin, 1939 suppl., 7544. *Opinions of the Attorney General of Indiana, 1938*, p. 126.

The constitution provides that "the salary of any officer fixed by this constitution or by law" shall not "be increased during the term for which such officer was elected or appointed," and that the general assembly shall not pass local or special laws "in relation to fees or salaries: except that the laws may be so made as to grade the compensation of officers in proportion to the population and the necessary services required." Const. 1851, art. 4, sec. 22; art. 15, sec. 2 (as amended in 1926).

An increase in the compensation of the county superintendent of schools cannot become effective during the term of the incumbent. *Opinions of the Attorney General of Indiana, 1939*, p. 132.

The county superintendent of schools cannot receive compensation while holding over after expiration of his term and after his successor is elected and qualified. *Edington v. Board of County Comrs.*, 105 Ind. App. 156, 13 N. E. (2d) 895 (1938).

⁶ Acts 1911, ch. 94, sec. 3. Acts 1921, ch. 54, sec. 3. Acts 1935; Burns, 1940 suppl., 28-708; Baldwin, 1935 suppl., 5934.

⁷ Acts 1899; Burns 28-707; Baldwin 5946.

⁸ Acts 1915, 1921, 1937, 1939; Burns, 1940 suppl., 28-4511; Baldwin, 1939 suppl., 6739.

He cannot conduct or assist in conducting any "private or county normal school in this state" or receive any "pay or emolument from the management of such school."⁹ He may serve as a member of the state board of education if appointed to that board by the Governor.¹⁰ He is a member of the county board of education and presides at its meetings.¹¹

For sufficient legal grounds the county superintendent of schools may be removed from office by the circuit court after trial by jury on an accusation presented by the grand jury or verified by oath of any person; and such removal is subject to review by the supreme court.¹² If the superintendent of schools is convicted of a felony the judgment of conviction must declare his office vacant.¹³

Any vacancy in the office of county superintendent of schools is filled in the manner provided for the election for a full term. The person elected to fill the vacancy must post bond and take oath as was required of his predecessor, and holds office for the unexpired term and until his successor is elected and qualified.¹⁴

The county superintendent of schools, with the approval of the township trustees, may appoint an assistant. He is employed for such number of days as is necessary, and his compensation is fixed by the township trustees.¹⁵

Acts of 1824 and 1833 provided for the election of three trustees in each township, among whose duties was examining teachers and granting licenses.¹⁶ From 1834 to 1852 three county examiners were appointed by the circuit court. They served for 1-year terms before 1833 and for indefinite terms thereafter.¹⁷ From 1853 until 1861 the board of commissioners

⁹ Acts 1901; Burns 28-716 to 28-718; Baldwin 5954 to 5956.

¹⁰ Acts 1913; Burns 28-491; Baldwin 5906.

¹¹ See the essay entitled "County Board of Education."

¹² Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Acts 1899; Burns 28-703; Baldwin 5932. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052. *McComas v. Krug*, 81 Ind. 327 (1879); *Hufford v. Conover*, 139 Ind. 151, 38 N. E. 328 (1894).

¹³ Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹⁴ Acts 1899, 1911, 1913; Burns 28-702; Baldwin 5931.

¹⁵ Acts 1911, 1921; Burns 28-709; Baldwin 5937.

¹⁶ Rev. L. 1824, ch. 97, sec. 1. Acts 1832-33, ch. 70, sec. 172. Fassett A. Cotton, *Education in Indiana*, (1934), p. 245.

¹⁷ Acts 1833-34, ch. 220, sec. 4. Acts 1836-37 (general), ch. 2(14), sec. 3. Rev. Stat. 1838, ch. 94(14), sec. 3. Rev. Stat. 1843, ch. 15, secs. 133-135.

annually appointed from one to three examiners.¹⁸ No supervision of schools other than the examination of teachers was provided previous to 1861. An act of 1861 required the board of commissioners to appoint one examiner for a term of 3 years to serve throughout the county. This examiner was given certain supervisory powers over the operation of schools. The inauguration of this function has been termed "the real beginning of rural school supervision in the state."¹⁹ The examiner conducted public examinations, issued licenses for periods from 6 months to 2 years, and had authority to revoke such license for cause. All licenses were limited to the county in which they were issued. He visited schools; advised with the trustees; endeavored to raise the educational standards of the schools; received all reports from teachers, trustees, and private schools and transmitted them to the state superintendent of public instruction; aided and advised the township librarians; approved textbooks used in schools; advised trustees on school furnishings and equipment; and made such reports as were required by the state department of public instruction.²⁰ Encouragement of teachers' institutes and associations and additional regulations for teachers' examinations were added to his duties by an act of 1865.²¹ An act of 1873 changed the officer's title to "county superintendent," transferred to the township trustees the power of appointment, made the county superintendent more responsible to the state superintendent of public instruction, and gave the county superintendent advisory supervision of the schools of the county.²² An act of 1875, which was held unconstitutional in 1879, provided for the appointment of the county superintendent by the board of commissioners.²³ An act of 1927 changed the title of this officer to "county superintendent of schools."²⁴ An act of 1923 gave the state board of education exclusive jurisdiction to license school superintendents, supervisors, principals, teachers, attendance officers, and all other regular school employees.²⁵

¹⁸ Acts 1853, ch. 106, sec. 6. Acts 1855, ch. 86, sec. 146.

¹⁹ Acts 1861, ch. 41, sec. 32. Fassett A. Cotton, *Education in Indiana*, (1934), p. 247.

²⁰ Acts 1861, ch. 41, secs. 33-45.

²¹ Acts 1865, ch. 1, secs. 33-42.

²² Acts 1873, ch. 25, secs. 2-4.

²³ Acts 1875, ch. 89, sec. 1. *State v. Harrison*, 67 Ind. 71 (1879).

²⁴ Acts 1927, ch. 142, secs. 1, 2. Acts 1935, ch. 258, secs. 1, 2.

²⁵ Acts 1923; Burns 28-4201 to 28-4217; Baldwin 5912 to 5928. Information obtained from

FUNCTIONS AND RECORDS

The county superintendent of schools is an officer of the public school system of Indiana,²⁶ and constitutes the medium between the state superintendent of public instruction and the "subordinate school officers and the schools."²⁷

The county superintendent exercises general supervision of those schools in Tippecanoe County which are not within incorporated cities and towns;²⁸ carries out the orders of the state board of education and the state superintendent of public instruction; visits the schools in session, at least once each year, for the purpose of increasing their usefulness and raising their scholastic standards as uniformly as practicable;²⁹ obtains the aid of the county agricultural agent in giving practical education in agriculture and domestic science;³⁰ cooperates with the state board of education in carrying out the provisions of the law requiring the teaching of the nature of alcoholic drinks and narcotics and their effects on the human system;³¹ provides for the examination of applicants for graduation from the common and high schools of the townships, districts, and towns, and furnishes the certificates of graduation; and attends commencements of the common and high schools of the townships and towns.³²

The county superintendent keeps a complete record of licenses held by the school teachers, county attendance officer, and other regular school employees working in the county (other than those of town and city schools);³³ reports to the school corporations as to teachers' preparation, experience, and licenses before they are employed;³⁴ conducts teachers' meetings and institutes;³⁵ notifies teachers of their "duties and obligations" under the law concerning teachers' pensions; sees that these "duties and obligations"

²⁶ State *ex rel.* Osborn v. Eddington, 208 Ind. 160, 195 N. E. 92 (1935).

²⁷ Acts 1899; Burns 28-704; Baldwin 5938.

²⁸ Acts 1899; Burns 28-704, 28-705; Baldwin 5938, 5940. Acts 1873; Burns 28-1401; Baldwin

5873.

²⁹ Acts 1921; Burns 28-305; Baldwin 5939. Acts 1899; Burns 28-704; Baldwin 5938.

³⁰ Acts 1913, 1923, 1927, 1937; Burns, 1940 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

³¹ Acts 1933; Burns 28-3410; Baldwin 6021.

³² Acts 1899; Burns 28-706; Baldwin 5942.

³³ This record shows the kind and grade of licenses, the success grade, the date of first employment, and monthly or annual salary. Acts 1923; Burns 28-4217; Baldwin 5928.

³⁴ Acts 1927, 1933; Burns 28-4309; Baldwin 6005.

³⁵ Acts 1865, ch. 1, secs. 159-161. Acts 1899; Burns 28-704, 28-706; Baldwin 5938, 5942. Acts 1907, 1929, 1933; Burns 28-4401, 28-4402; Baldwin 6728, 6725.

are stated in the teachers' contracts; and reports to the board of trustees of the Indiana State Teachers' Retirement Fund information needed by that board for the administration of the retirement fund.³⁶

The county superintendent of schools annually nominates a county attendance officer to be appointed by the county board of education; serves as such attendance officer if one is not appointed, in which event the county superintendent may designate one or more teachers to serve as assistant attendance officers; supervises the work of the county attendance officer; authorizes or prosecutes legal proceedings for the enforcement of the school attendance laws;³⁷ issues work permits and absence permits for children;³⁸ and arranges for examination of children by physicians and other experts as a basis for the establishment of special classes for children who are physically handicapped or mentally retarded, and those regarded as "problem children."³⁹

The county superintendent authorizes the removal and relocation of township school buildings;⁴⁰ acts with the county assessor and auditor in determining the value of school buildings and equipment to be purchased by a township from a school town;⁴¹ appoints depository merchants and dealers for the sale of school books;⁴² and joins with each township trustee in making regulations concerning the free use of school books in the several school libraries.⁴³

The county superintendent examines and verifies certificates, presented by township trustees, for aid from the state common school relief fund;⁴⁴ receives from the township trustees and the school trustees of cities and towns

³⁶ These reports must show the teachers' pension account numbers and such other information as is required by the pension board. Acts 1915, 1921, 1937, 1939; Burns, 1940 suppl., 28-4511(g); Baldwin, 1939 suppl., 6739(g).

³⁷ Acts 1921, 1932 (Spec. Sess.); Burns 28-501, 28-502; Baldwin 6693, 6694.

³⁸ Acts 1921, 1929; Burns 28-505, 28-519; Baldwin 6698, 6712.

Mental unfitness. In re Morton, 79 Ind. App. 5, 137 N. E. 62 (1922).

³⁹ Acts 1927; Burns 28-3502; Baldwin 6077.

⁴⁰ Acts 1893; Burns 28-2701; Baldwin 6104.

⁴¹ Acts 1919; Burns 28-1209; Baldwin 6247.

⁴² Acts 1907, 1913; Burns 28-610; Baldwin 6681.

The county superintendent cannot "deal in school books in his official capacity." Acts 1907; Burns 28-611; Baldwin 6682.

⁴³ Acts 1935; Burns, 1940 suppl., 28-628; Baldwin, 1935 suppl., 6677-5.

⁴⁴ Acts 1921, ch. 201, secs. 4, 5. Acts 1931, ch. 163, secs. 4, 5, 13. Acts 1933, ch. 167, sec. 12. Acts 1933; Burns 28-903, 28-904; Baldwin 6433, 6434.

copies of their reports to the board of commissioners concerning "special school revenue" and the "school revenue for tuition";⁴⁵ reports to the county auditor the basis for the apportionment of school revenues;⁴⁶ receives semiannual reports from the county auditor showing the precise amount of "school revenue for tuition" in the county ready for apportionment and distribution;⁴⁷ sees that the interest on the common school fund is apportioned, and that proper warrants are issued in case of "loss of any school fund or revenue" or "a deficit of interest of any school fund";⁴⁸ and inspects the official dockets, records, and books of accounts of the clerks of courts, county auditor, board of commissioners, justices of the peace, prosecuting attorney, mayors of cities, and township and school trustees to ascertain if any of said officers have neglected to collect and pay to the school funds any revenues belonging to such funds, and he institutes judicial proceedings when such neglect is found.⁴⁹

The county superintendent will appoint three members of the county library board when such board is established in the county. He appoints two members of any city library board which receives aid from the county.⁵⁰ From 1919 until 1935 he annually awarded two scholarships to Indiana University.⁵¹

The county superintendent hears and decides appeals from township trustees concerning "the legality of school meetings," the establishment of schools, the location, building, repair, or removal of schoolhouses, the "transfer of persons for school purposes," the transfer of pupils from one school corporation to another, the transportation of such transferred pupils to and from school, the resignation and dismissal of

⁴⁵ These reports are made annually unless the board of commissioners requires that they be made more often. Acts 1865, 1873, 1883; Burns 28-2412; Baldwin 6198.

⁴⁶ Acts 1865; Burns 28-715; Baldwin 5949.

⁴⁷ Acts 1865, 1873, 1897; Burns 28-1009; Baldwin 6486.

⁴⁸ Acts 1873, 1875; Burns 28-711; Baldwin 5951. Acts 1865; Burns 28-715; Baldwin 5949.

⁴⁹ Acts 1873; Burns 28-712; Baldwin 5950. Moore v. State *ex rel.* Denny, 55 Ind. 360, (1876); Nichols v. State *ex rel.* Clerk 65 Ind. 512 (1879); Carr v. State *ex rel.* Attorney General, 81 Ind. 342 (1882).

The county superintendent cannot enjoin school trustees from unlawfully paying out school funds. McGreggor v. State *ex rel.* Ballard, 31 Ind. App. 483, 68 N. E. 315 (1903).

⁵⁰ Acts 1917, 1921, 1927, 1939; Burns, 1940 suppl., 41-510, 41-514; Baldwin, 1939 suppl., 10321, 10325.

⁵¹ Acts 1919, ch. 185, sec. 1. Acts 1935, ch. 45, sec. 1.

teachers, and other school matters.⁵² He casts the deciding vote in case of a tie vote concerning the management and control of any high school operated jointly by two or more school corporations in the county.⁵³ In many cases his acts and decisions are reviewable on appeal to the state superintendent of public instruction.⁵⁴

The county superintendent receives annual statistical reports from township trustees and the school trustees of cities and towns;⁵⁵ cooperates in the examination of schools by inspectors of the state board of education; makes reports as required by such inspectors;⁵⁶ and makes annual reports to the state superintendent of public instruction concerning the condition of the schools and schoolhouses, the progress of education, the average daily attendance of school children (substituted for the enumeration of children of school age in 1932) as the basis for distributing school revenues, and such additional statistics and information concerning public and private schools as is required by the state superintendent.⁵⁷

REPORTS

390. [ANNUAL REPORTS], 1899-. 2 f. d.

Contains:

- i. Copies of county superintendent's statistical reports to state superintendent of public instruction, showing date of report and period covered; names of townships; number, sex, and color of pupils in grades 1 to 12; number of pupils transferred and transported; number of contracts and days pupils were transported; classification and salaries of all school employees; number of schools abandoned and new schools built; and last assessed valuation of school property.

⁵² Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405; Baldwin 5952. Acts 1901; Burns 28-3705; Baldwin 6286. Acts 1935; Burns, 1940 suppl., 28-3718; Baldwin, 1935 suppl., 6292-2. Acts 1917; Burns 28-3801; Baldwin 6271. State *ex rel.* Stewart v. Miller, 193 Ind. 492, 141 N. E. 60 (1923); Brumfield v. State *ex rel.* Wallace, 206 Ind. 647, 190 N. E. 863 (1934). *Opinions of the Attorney General of Indiana, 1938*, p. 302.

⁵³ Acts 1911, 1915; Burns 28-2652; Baldwin 6171.

⁵⁴ Acts 1899; Burns 28-704; Baldwin 5938. Acts 1865; Burns 28-2405, 28-2407; Baldwin 5952, 5953.

⁵⁵ Acts 1865, 1873, 1883; Burns 28-2414; Baldwin 5974.

⁵⁶ Acts 1921; Burns 28-305; Baldwin 5939.

⁵⁷ Acts 1865, 1873, 1895; Burns 28-713 to 28-715; Baldwin 5947 to 5949. Acts 1865, 1893, 1932 (Spec. Sess.), 1933; Burns 28-1013; Baldwin 6490.

- ii. Copies of county superintendent's financial reports to state superintendent of public instruction, showing date of report and period covered; amount and source of receipts; date, nature, and amount of expenditures; amount of balance at beginning and closing of period; names of township or school corporation and funds; amounts of outstanding bonds and orders; and interest rate.

Arr. chron. by dates of reports. No index. Hdw. 10 x 13 x 25. Supt. off.

391. [TRUSTEES' REPORTS], 1899-. 2 f. d.

Township trustees' reports to county superintendent of schools, including:

- i. Financial statements and reports, showing date of report and period covered; names of trustee and township; itemized amounts and nature of receipts and expenditures; per capita cost for each pupil; and statement of assets, liabilities, and net valuation of school property.
- ii. Statistical reports, showing date of report and period covered; names of trustee and township; number, sex, and color of pupils in grades 1 to 12; number of pupils transferred and transported; number of contracts and days pupils were transported; total mileage and longest and shortest route; classification and salaries of all school employees; number of schools abandoned and new schools built; last assessed valuation of school property; and itemized list of tax levies by funds.

Arr. chron. by dates of reports. No index. Hdw. and typed. 10 x 13 x 25. Supt. off.

392. [SCHOOL REPORTS], 1917-. 1 f. d.

Contains:

- i. Copies of county superintendent's report to state superintendent of public instruction, inspection division, of teachers and school employees, showing date of report; name of township or school corporation; location of school; names and number of teachers; list of subjects taught; names and duties of other employees; date, number, and nature of permit or license; teacher's training, experience, success grade, and salary; and duration of teacher's contract.

- ii. Copies of annual report to county board of education of claims and distribution of state school relief funds, 1934-, showing dates of report and period covered, names of township or school corporation and fund, county auditor's certificate of distribution, itemized list of receipts and disbursements, totals, balance, tax levies itemized by funds, total valuation, and amount of funds.
- iii. Department of public instruction, division of inspection, reports to county superintendent of schools of inspections and ratings of the schools, 1925-, showing dates of report and inspection; names of inspector and township or school corporation; record of teaching staff, supervision, and administration; itemized list of buildings, grounds, furnishings, equipment, programs, and studies; school rating; and recommendations of inspector.
- iv. Township trustees' report to county superintendent of schools of the aggregate daily attendance of pupils in grades 1 to 12 of the public and parochial schools, 1933-, showing dates of report and period covered; names of trustee, township, and schools; number of teachers, pupils, and schools; number of days each school was operated; total number of days all schools were in operation; and aggregate and average daily attendance.

Also contains: [Indiana High School Record], entry 410. Arr. chron. by dates of reports. No index. Hdw. and typed. 10 x 13 x 25. Supt. off.

393. PROCEEDINGS OF BOARD OF COUNTY EXAMINERS, 1865-73.
1 vol.

Record of proceedings of county board of examiners, showing date of meeting, names of township and school visited, and decisions and recommendations of board. Arr. alph. by names of townships. No index. Hdw. 506 pp. 13 x 8 x 2. Supt. off.

TEACHERS

394. LICENSE RECORD, 1869-1914, 1923-. 2 f. d. Title varies: City and County Teachers, 1869-1914, 1 f. d.

Card file record of teachers qualifications, showing name, age, experience, and qualifications of teacher; name of college

attended; date of graduation; and nature of degree. Arr. alph. by names of teachers. No index. Hdw. 4 x 6 x 16. Supt. off.

395. TEACHERS OF PUBLIC SCHOOLS OF LAFAYETTE, WEST LAFAYETTE, AND TIPPECANOE COUNTY, 1907, 1915, 1918-22, 1925-. 221 vols.

Register of teachers and school officials in township and corporation schools, showing date of registration; name, address, and position of each teacher and school official; kind and grade of license; years experience; college attended; and license number. Arr. by names of schools. No index. Typed. 15 pp 5 x 4 x 1/16. Supt. off.

396. RECORD OF LICENSES, 1912-. 5 vols. 1 f. d.

Record of teachers' licenses, showing dates of license and expiration; name, age, address, training, experience, and success grade of teacher; names and locations of training institutions attended; and academic degrees held by teacher. Arr. chron. by dates of licenses, 1912-23; arr. alph. by names of teachers, 1923-. Indexed alph. by names of teachers, 1912-22; no index, 1923-. Hdw. Vols., 199 pp. 9 x 15 x 1 1/4; f. d., 6 x 9 x 16. Supt. off.

397. TEACHERS QUALIFICATION CARDS, 1923-. 2 f. d.

Card file of qualifications of teachers, showing names of teachers and accredited institution, teacher's training and experience, and license and success grades. Arr. alph. by names of teachers. No index. Typed. 6 x 9 x 16. Supt. off.

398. [TEACHER'S QUALIFICATIONS], 1913-14. 1 vol.

Record of teachers qualifications, showing date of license; and name, experience, training, and special qualifications of teachers. Arr. chron. by dates of licenses. Indexed alph. by names of teachers. Hdw. 200 pp. 14 x 9 x 1/2. Supt. off.

399. [TEMPORARY TEACHING PERMITS], 1926-. 1 f. d.

Card file record of temporary teaching permits issued by state department of education, superintendent of teacher's training and licensing, showing date and nature of permit, name of teacher and employing township, and teacher's license number. Arr. alph. by names of teachers. No index. Hdw. 6 x 9 x 16. Supt. off.

400. RECORD OF EXAMINATIONS, 1864-1911. 5 vols.

Record of examination for teachers licenses, showing date of examination, type of license applied for, names of applicant and examiner, grade made in each branch, general average, teaching qualifications and experience, and success grades. Arr. chron. by dates of examinations. No index. Hdw. 300 p p. 9 x 14 x 2. Supt. o ff

401. SUCCESS RECORD, 1903-15, 1927-29, 1933-35. 16 vols.
Title varies: Success Schedule, 1927-29, 1933-34,
13 vols.

Record of teachers' success schedules, showing date of schedule and school year; name and address of teacher; name of township; months taught; success grade; ratings on personality, preparation, teaching technique, achievement, management, professional attitude, and extension work; and total rating. Arr. chron. by dates of schedules. Indexed alph. by names of teachers, 1903-15, 1935; no index, 1927-28, 1933-34. Hdw. 100 pp. 9 x 9 x 1. Supt. off.

402. EXEMPTION LICENSES, 1889-1923. 1 vol.

Record of exemption licenses issued to teachers, supplemented with record of state licenses issued and state normal diplomas, showing date of issue, expiration, and renewal of license, and name and address of teacher. Arr. chron. by dates of issue. Indexed alph. by names of teachers. Hdw. 198 pp. 14 x 8 x 2. Supt. off.

403. RECORD OF APPLICATIONS FOR LICENSES, 1898-1918. 2 vols.

Record of applications for teachers licenses, showing date of application; name, age, sex, color, address, success grade, and professional interest of applicant; and date and kind of license. Arr. chron. by dates of applications. No index. Hdw. 200 pp. 14 x 9 x 1/2. Supt. off.

404. COUNTY TEACHERS INSTITUTE, 1876-83, 1885-95, 1897-1910. 40 vols.

Misutes of meetings of teachers' institute, showing date of meeting, names of speakers and teachers enrolled and present, and action taken. Arr. chron. by dates of meetings. No index. Hdw. 122 pp. 12 x 9 x 1/2. Supt. off.

405. TEACHERS OPERATING UNDER MINIMUM LAW OF 1907, 1908-14. 1 vol.

Record of teachers employed subject to minimum wage law, showing date, number, and kind of license; dates of employment; and name, address, training, experience, and teaching record of teacher. Arr. chron. by dates of employment. Indexed alph. by names of teachers. Hdw. 200 pp. 14 x 9 x 3/4. Supt. off.

PUPILS

406. HIGH SCHOOL RECORD, 1901-. 13 vols., 2 f. d.
Title varies: Record of High School Credits,
1901-12, 1922-23, 2 vols.

Record of enrollment of high school pupils, showing dates

of enrollment and withdrawal or graduation; name, address, and date and place of birth of pupil; names of parents or guardian and school attended; subjects studied; grades attained; attendance, employment, and health record; and extra curricular activities. Arr. alph. by names of schools, thereunder alph. by names of pupils. No index. Hdw., 13 x 15 x 26. Supt. off.

407. ENROLLMENT RECORD, 1934-. 1 f. b.

Teachers' reports to county superintendent of schools on enrollments, showing date of report and enrollment; names of pupils, teacher, school, and township or corporation; name and address of parent or guardian; date of birth and school grade of pupils; number of grades; number of males and females enrolled in each; and total enrollment. Arr. chron. by dates of reports. No index. Hdw. 10 x 5 x 15. Supt. off.

408. [ATTENDANCE AND GRADE RECORDS], 1917-. 18 vols., 2 f. d.

Record of attendance and grade reports of pupils of all township schools in county, showing date of school term, names of pupils and school, branches studied, grades made, and number of days present and absent. Arr. by names of schools, thereunder chron. by dates of school terms. No index. Hdw. Vols., 1,200 pp. 16 x 14 x 6; f. d., 16 x 16 x 24. Supt. off.

409. [TEACHERS' REPORTS OF AGGREGATE ATTENDANCE], 1933-. 1 f. d.

Teachers' reports to county superintendent of aggregate attendance of pupils, showing date of report and period covered; name of teacher, school, and township or school corporation; name, date of birth, and grade of pupil; number of days present; number of days school was in operation; total days attendance; and total enrollment. Arr. chron. by dates of reports. No index. Hdw. and typed. 10 x 13 x 25. Supt. off.

410. [INDIANA HIGH SCHOOL RECORD], 1927-32. 1 f. d. 1933- in School Reports, entry 392.

Card record of enrollment of high school pupils, showing dates of enrollment and withdrawal or graduation; name, address, and date and place of birth of pupil; names of parent or guardian and school attended; subjects studied; grades attained; attendance; employment and health record; and extra curricular activities. Arr. alph. by names of pupils. No index. Hdw. 10 x 13 x 25. Supt. off.

411. RECORD OF EXAMINATIONS, 1897-1910. 1 vol.

Record of common school graduates, showing date of graduation; name, age, sex, and address of graduate; names of teacher, township trustee, and school superintendent; and subjects, grades, and general average grade of examination. Arr. by school units, thereunder alph. by names of graduates. No index. Hdw. 400 pp. 16 x 12 x 2. Supt. off.

412. TRANSFERS, 1877-98. 2 vols.

Record of pupils transferred from one township or school corporation to another, showing dates of transfer and school year, name and address of pupil, and names of township or school corporation, and township trustee or school corporation secretary. Arr. chron. by dates of transfers. No index. Hdw. 106 pp. 11 x 8 x 1/2. Supt. off.

413. SCHOOL ENUMERATION, 1921-28, 1930-31. 8 vols., 4 f. d.

Record of enumeration of school children for establishment of basis for apportionment of school revenue, showing date of enumeration; names of township, school, corporation, child, and parents; and age, race, sex, and address of child. Arr. by names of school corporations, thereunder alph. by names of pupils. No index. Hdw. Vols., 376 pp. 20 x 14 x 1; f. d., 5 x 7 x 14. Supt. off.

414. [HEALTH RECORD], 1920-21. 1 vol.

Record of physical examinations of school pupils, showing date of examination; names of pupil, examiner, and school; and results of examination. Arr. by names of schools, thereunder alph.- by names of pupils. No index. Hdw. 110 pp. 12 x 6 x 1/2. Supt. off.

415. PENMANSHIP, 1921. 2 vols.

Specimens of penmanship of pupils of Grand View and Jackson Township High Schools, showing name of pupil, and grade attained. Arr. by names of schools. No index. Hdw. 125 pp. 11 x 9 x 1. Supt. off.

MISCELLANEOUS RECORDS

416. PIONEER STORIES, 1816-1916. 1 vol.

Record of historical research compiled by students of county high schools, showing date written; names of compilers; titles of subjects; and histories of people, towns, villages, schools, academies, churches, transportation, agriculture, mills, and townships during civil war period. Arr. by titles of subjects. No index. Hdw. 808 pp. 11 x 8 x 4. Supt. off.

417. OUTLINE OF STUDY FOR TIPPECANOE COUNTY SCHOOLS, 1892-1900. 6 vols.

Record of study programs, showing date of school term, itemized list of studies to be taught, and graduation requirements. Arr. chron. by dates of school terms. No index. Printed. 25 pp. 9 x 6 x $\frac{1}{4}$. Supt. off.

418. RECORD OF SALES OF TEXT BOOKS, 1896-1907. 2 vols. Discontinued.

Record of trustees' reports to school superintendent of sales of school books, showing dates of report and sale; names of trustee, township, publisher, and text book; and number of books on hand at beginning of period, sold, unsold, and returned. Arr. chron. by dates of sale. No index. Hdw. 100 pp. 14 x 9 x $\frac{1}{2}$. Supt. off.

419. COUNTY AGENT'S CONTRACTS, 1920-36. 2 f. d.

Copies of appointments and contracts of agricultural agents, including:

- i. Appointments, showing date of appointment, and name of appointee. Arr. chron. by dates of appointments.
- ii. Contracts, showing date and conditions of contract, and name of agent. Arr. chron. by dates of contract.

No index. Hdw. and typed. 4 x 6 x 16. Supt. off.

XXXIX. COUNTY HEALTH OFFICER

LEGAL STATUS

The office of county health officer has existed in Tippecanoe County ever since 1933 under the mandatory requirements of an act of 1935 which became effective on January 1, 1938. The county health officer is appointed for a 4-year term by the board of commissioners with the approval of the Indiana State Board of Health.¹ He holds office for such term and until his successor is appointed and qualified.² A new term of office begins each 4th year after January 1, 1938.³ The board of commissioners determine whether he

¹ Const. 1816, art. 11, sec. 15. Const. 1851, art. 15, secs. 1, 2. Acts 1935; Burns, 1940 suppl., 35-118, 35-122, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-5, 8404-7.

² Const. 1851, art. 15, sec. 3. Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

³ Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

shall be a "full-time" officer or a "part-time" officer. He is now a part-time officer.⁴

Two or more counties may be formed into a health district in charge of a full-time official known as a district health officer. Tippecanoe County is not in such a health district.⁵

A health officer must be a regularly licensed physician, legally qualified to practice medicine in Indiana and suitably trained in sanitary science;⁶ must have resided in the county for 1 year next preceding his appointment;⁷ must reside within the county after his appointment;⁸ must not hold any other lucrative office when serving as a full-time health officer;⁹ and must take an oath of office to support the State and Federal Constitutions and faithfully discharge the duties of his office.¹⁰

A part-time county health officer receives an annual salary in an amount equal to 3 cents for each person residing within the area included in his territorial jurisdiction, provided that his salary must be between \$200 and \$1,800 per year. A part-time county health officer may also serve as a part-time city health officer but his compensation from the two offices cannot exceed \$1,800 per year. A full-time county health officer receives an annual salary in an amount fixed by the board of commissioners.¹¹ With the approval of the board of commissioners and the state board of health, a health officer is permitted to receive gifts and other financial assistance from private individuals, private corporations, the state, and the United States.¹² A retiring

⁴ Acts 1935; Burns, 1940 suppl., 35-122, 35-128; Baldwin, 1935 suppl., 8404-5, 8404-11. Information obtained from Dr. John W. Ferree, director of the state board of health, on November 19, 1940, by William E. Chambers.

⁵ Acts 1935; Burns, 1940 suppl., 35-125; Baldwin, 1935 suppl., 8404-8. Information obtained from Dr. John W. Ferree, director of the state board of health, on November 19, 1940, by William E. Chambers.

⁶ Acts 1909, ch. 144, sec. 6. Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

⁷ Const. 1816, art. 11, sec. 14. Const. 1851, art. 6, sec. 4.

⁸ Const. 1816, art. 11, sec. 6. Const. 1851, art. 6, sec. 6.

⁹ Const. 1816, art. 11, sec. 13. Const. 1851, art. 2, sec. 9.

¹⁰ Const. 1851, art. 15, sec. 4.

¹¹ Acts 1881, ch. 19, sec. 8. Acts 1891, ch. 15, sec. 8. Acts 1935; Burns, 1940 suppl., 35-118, 35-124; Baldwin, 1935 suppl., 8404-1, 8404-7. Information obtained from Dr. John W. Ferree, director of the state board of health, on November 25, 1940, by W. Davis Hamilton.

¹² Acts 1935; Burns, 1940 suppl., 35-127; Baldwin, 1935 suppl., 8404-10.

health officer cannot receive his last month's pay until all books are surrendered and all reports are properly made.¹³

The health officer may appoint necessary deputies and assistants to serve during certain emergencies.¹⁴ The necessary operating expenses of this office must be provided by the board of commissioners and he is entitled to reimbursement for all traveling expenses necessarily incurred by him in the discharge of his official duties.¹⁵

The health officer may be removed from office by the board of commissioners or the state board of health.¹⁶ If he is convicted of a felony the judgment of conviction must declare his office vacant.¹⁷

Any vacancy in this office is filled through appointment by the board of commissioners with approval of the state board of health. The appointee holds office for the unexpired term of his predecessor and until the appointee's successor is appointed and qualified.¹⁸

From 1881 to 1909 the board of commissioners constituted, ex officio, the county board of health and annually appointed a secretary who was a physician and served as county health officer. The law provided that the secretary must render medical and surgical services to the inmates of the county jail and other county institutions.¹⁹ An act of 1891 enlarged the duties of the board.²⁰ In 1909 the county board of health was abolished and the office of county health commissioner was created. He was appointed by the board of commissioners for a 4-year term. The law of 1935, which is mentioned in the first paragraph of this essay, superseded the act of 1909.²¹

¹³ Indiana State Board of Health, *Book of Instructions to Health Authorities* (1931), Rule 7(2), p. 12.

¹⁴ *Ibid.*, Rule 1, p. 9.

¹⁵ Acts 1935; Burns, 1940 suppl., 35-118, 35-122; Baldwin, 1935 suppl., 8404-1, 8404-5. Acts 1903; Burns 35-406; Baldwin 8536. *Opinions of the Attorney General of Indiana, 1934*, p. 282, 1938, p. 11.

¹⁶ Acts 1909, ch. 144, sec. 6. Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

¹⁷ Const. 1851, art. 6, sec. 8. Acts 1899; Burns 49-834; Baldwin 13050.

¹⁸ Const. 1851, art. 6, sec. 9; art. 15, sec. 3. Acts 1899, ch. 16, sec. 2. Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

¹⁹ Acts 1881, ch. 19, secs. 8, 9, 11. Acts 1889, ch. 122, sec. 1. Acts 1891, ch. 15, secs. 8, 9, 11. Acts 1899, ch. 16, secs. 2, 4, 5, 8.

²⁰ Acts 1891, ch. 15, sec. 8. Acts 1899, ch. 16, sec. 8.

²¹ Acts 1909, ch. 144, secs. 4, 6. Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

FUNCTIONS AND RECORDS

The territorial jurisdiction of a county health officer extends throughout the county, except that a full-time county health officer has no jurisdiction of the area within a city having a full-time health officer and a part-time county health officer has no jurisdiction in a city which has a full-time or part-time health officer. The jurisdiction of a district health officer (hereinafter treated as a county health officer) extends throughout all counties in his district, except in cities having a full-time health officer.²²

The health officer protects and supervises the general health and sanitation within his territorial jurisdiction;²³ enforces the public health statutes of the state and the rules of the state board of health, subject to appeal by any aggrieved person to the state board of health;²⁴ condemns buildings which are unfit for human habitation;²⁵ orders improvements in or about a building when necessary to health;²⁶ must acquaint himself thoroughly with the work of the state laboratory of bacteriology and pathology and with the prescribed methods of preparing the various kinds of specimens for examination at that laboratory;²⁷ keeps available to physicians a complete supply of approved mailing outfits for specimens to be sent to the state laboratory of bacteriology for examination;²⁸ aids in procuring, free of charge for the use of the poor, insulin, antirabic and smallpox virus, typhoid bacterins, and antitoxins and antiseptic serums for diphtheria, scarlet fever, and tetanus (lockjaw), and makes reports thereon to the state board of health;²⁹ gives information and assistance for obtaining free medical

²² Acts 1935; Burns, 1940 suppl., 35-122, 35-124, 35-128; Baldwin, 1935 suppl., 8404-5, 8404-7, 8404-11. State board of health, *op. cit.*, p. 3. *Opinions of the Attorney General of Indiana, 1938*, p. 93.

²³ Acts 1899, ch. 16, sec. 8. Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1940 suppl., 35-122, 35-124; Baldwin, 1935 suppl., 8404-5, 8404-7.

²⁴ Acts 1881, ch. 19, sec. 9. Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1.

The rules established by the state board of health have the force of statutes. *Blue v. Beach*, 155 Ind. 121, 130, 56 N. E. 89 (1900); *Isenhour v. State*, 157 Ind. 517, 521, 62 N. E. 40 (1901).

²⁵ Acts 1917; Burns 35-1801; Baldwin 8563.

²⁶ Acts 1917; Burns 35-1802; Baldwin 8564.

²⁷ State board of health, *op. cit.*, Rule 1, p. 32.

²⁸ *Ibid.*, Rule 2, p. 32.

²⁹ Acts 1907, 1919, 1929, 1935; Burns, 1940 suppl., 35-701, 35-702, 35-710; Baldwin, 1935 suppl., 13392, 13393, 13395-1.

and surgical services, nursing, and hospitalization, when available;³⁰ and attends conventions and conferences of health officials when called by the state board of health.³¹

He receives reports and information concerning births, marriages, certain diseases, and deaths; keeps permanent records thereof; makes reports to the state board of health concerning such births, marriages, diseases, and deaths;³² issues permits for transportation and burial of dead human bodies and sends reports thereof to the state board of health;³³ has supervision over funerals in case of death from certain diseases;³⁴ notifies the county coroner when he finds evidence that a death was caused by violence or criminal practice or that a dead human body was buried or otherwise disposed of without a permit;³⁵ and prepares and delivers to the clerk of the circuit court on his request a list of names and addresses of deceased voters of the county.³⁶

³⁰ Acts 1907, 1919, 1929, 1935; Burns, 1940 suppl., 35-701, 35-703; Baldwin, 1935 suppl., 13392, 13394. Information obtained from Dr. John W. Ferree, director of the state board of health, on November 25, 1940, by W. Davis Hamilton.

³¹ Acts 1903; Burns 35-406; Baldwin 8536.

³² Births. Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9, 10, 12. Acts 1899, ch. 16, sec. 4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Acts 1911; Burns 35-901; Baldwin 8558. Acts 1939; Burns, 1941 suppl., 35-805; Baldwin, 1939 suppl., 8557-2. State board of health, *op. cit.*, pp. 3, 7; Rules 2, 4, pp. 9-11.

Marriages. Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9, 12. Acts 1899, ch. 16, sec. 3. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. State board of health, *op. cit.*, p. 3; Rules 1 (2), 2, 5, pp. 9, 11.

Diseases. Acts 1881, ch. 19, sec. 9. Acts 1891, ch. 15, sec. 9. Acts 1899, ch. 16, secs. 3, 4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. Acts 1903; Burns 35-401 to 35-403; Baldwin 8531 to 8533. Acts 1917; Burns 35-601 to 35-603; Baldwin 8402, 8552, 8553. Acts 1939; Burns, 1941 suppl., 35-805; Baldwin, 1939 suppl., 8557-2. Acts 1911; Burns 35-903, 35-904; Baldwin 8560, 8561. Acts 1935; Burns, 1941 suppl., 35-2207; Baldwin, 1935 suppl., 8431-7. State board of health, *op. cit.*, Rules 1, 6, 10, 16, 24, 40, 53, 54, FD4(12), FD25(9), FD43(7-d), pp. 9, 11, 13, 15, 25, 27, 30, 49, 63, 76.

Deaths. Acts 1881, ch. 19, secs. 7, 9-13. Acts 1891, ch. 15, secs. 9-12. Acts 1899, ch. 16, secs. 3, 4. Acts 1891, 1909; Burns 35-107, 35-111; Baldwin 8392, 8405. Acts 1907, 1913; Burns 35-115, 35-116; Baldwin 8398, 8399. State board of health, *op. cit.*, pp. 3, 4; Rules 2, 3, 4 (par. 2), pp. 9, 10.

³³ Acts 1907, 1913; Burns 35-115; Baldwin 8398. State board of health, *op. cit.*, Rule 44, p. 28.

³⁴ Acts 1903, 1915; Burns 35-409; Baldwin 8539.

³⁵ Acts 1907, 1913; Burns 35-115; Baldwin 8398.

³⁶ Acts 1925, ch. 138, sec. 1 (repealed by Acts 1927, ch. 195, sec. 1). Acts 1933; Burns 29-321; Baldwin 7319.

He inspects places used for the sale of food to the public, or for the manufacture, storage, distribution, or transportation of food for such sale; reports to the state board of health any conditions at such places which may transmit, generate, or promote disease;³⁷ orders the abatement of public nuisances, and notifies the prosecuting attorney if such order be disobeyed;³⁸ makes medical examinations of persons required by law to have health certificates in order to engage in certain occupations involving the handling of food and food materials, and issue health certificates to such persons when free of communicable disease; designates physicians to make such medical examinations and issue such health certificates;³⁹ directs the cleaning and disinfecting of milk containers before their removal from places at which certain diseases existed;⁴⁰ inspects the public water supply; ascertains and inspects the sources of water used in bakeries, restaurants, hotels, tourist camps, and similar places in the county; sends samples of water to the state laboratory for inspection, in order to detect pollution; issues certificates showing the quality of water in certain private wells; orders the disuse of water from any polluted water supply; and recommends methods of improving the quality of any public or private water supply.⁴¹

The health officer investigates the presence, source, and cause of diseases;⁴² establishes, enforces, modifies, and terminates quarantines;⁴³ closes schools, churches, and

³⁷ Acts 1891, 1909; Burns 35-111, 35-1009; Baldwin 8405, 8512. Acts 1919; Burns 35-1108; Baldwin 8521. Acts 1907, 1911; Burns 35-1203; Baldwin 8450. Acts 1911; Burns 35-1507; Baldwin 8502.

³⁸ Acts 1891, 1909; Burns 35-111; Baldwin 8405. State board of health, *op. cit.*, pp. 5, 6, 91.

³⁹ Bakery. Acts 1919; Burns 35-1103; Baldwin 8516.

Milk. State board of health, *op. cit.*, Par. 31(b), p. 53.

Cheese. *Ibid.*, Par. 7(b), p. 76.

Ice cream. *Ibid.*, Par. 8(b), p. 63.

⁴⁰ *Ibid.*, Rules 26, FD4(13), pp. 25, 26, 49.

⁴¹ Acts 1909; Burns 35-201; Baldwin 8410. Acts 1919; Burns 35-1105; Baldwin 8518. State board of health, *op. cit.*, Rules SE1-SE10, SE18, pp. 77-83, 89-91.

⁴² Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1903; Burns 35-408; Baldwin 8538. State board of health, *op. cit.*, Rule 16, p. 15.

Diseases of school children. *Ibid.*, Rules 24, 40, pp. 25, 27.

⁴³ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1903, 1915; Burns 35-403, 35-408, 35-409; Baldwin 8533, 8538, 8539. State board of health, *op. cit.*, Rules 10-22, 27, pp. 13-26.

Minimum period. State board of health, *op. cit.*, Rule 22, p. 20.

Attending school. Acts 1903; Burns 35-405; Baldwin 8535. State board of health, *op. cit.*, Rules 10, 24, pp. 13, 25.

Renting to another tenant. Acts 1917; Burns 35-605; Baldwin 8556.

swimming pools, and forbids public gatherings, in order to prevent the spread of epidemics;⁴⁴ authorizes vaccination in certain cases as an alternative of quarantine or exclusion from public places;⁴⁵ causes public service vehicles, public buildings, and dwelling places, and articles contained therein, to be disinfected after certain diseases have existed there;⁴⁶ causes the removal of diseased persons and their baggage from public service vehicles, hotels, rooming houses, apartments, and similar places, when necessary to prevent the spread of certain diseases;⁴⁷ issues permits authorizing common carriers to bring into the state persons having certain diseases;⁴⁸ issues permits authorizing persons having a venereal disease to move from one health jurisdiction to another;⁴⁹ must take all reasonable and necessary precautions against spreading diseases to which he has been exposed;⁵⁰ approves claims which are to be submitted to the board of commissioners in connection with the destruction of personal property to prevent the spread of disease;⁵¹ and dismisses schools at which there are not 225 cubic feet of air space for each pupil.⁵²

He orders the destruction of domestic animals which have been exposed to certain diseases contrary to quarantine regulations;⁵³ sends, or assists in sending, heads of animals to the state laboratory for scientific examination to determine whether the animals were rabid;⁵⁴ formerly referred indigent persons bitten by a dog, known or supposed to have hydrophobia, to the state board of health for the Pasteur

⁴⁴ Acts 1891, 1909; Burns 35-111; Baldwin 8405. State board of health, *op. cit.*, Rule SE-17(9), p. 86.

⁴⁵ State board of health, *op. cit.*, Rule 12, p. 14. *Blue v. Beach*, 155 Ind. 121, 56 N. E. 89 (1900); State *ex rel. Horne v. Beil*, 157 Ind. 25, 60 N. E. 672 (1901).

⁴⁶ Acts 1903; Burns 35-404, 35-410; Baldwin 8534, 8540. Acts 1917; Burns 35-603 to 35-605; Baldwin 8553, 8554, 8556. State board of health, *op. cit.*, Rules 21, 25, 27, pp. 19, 25, 26.

⁴⁷ Acts 1903; Burns 35-407, 35-408; Baldwin 8537, 8538. State board of health, *op. cit.*, Rule 21, p. 19.

⁴⁸ State board of health, *op. cit.*, Rule 20, p. 19.

⁴⁹ *Ibid.*, Rule 18, p. 16.

⁵⁰ *Ibid.*, Rule 13, p. 14.

⁵¹ Acts 1903; Burns 35-407; Baldwin 8537.

⁵² State board of health, *op. cit.*, Rule 28, p. 26.

⁵³ *Ibid.*, Rule 26(2), p. 26.

⁵⁴ Acts 1935; Burns, 1940 suppl., 35-711; Baldwin, 1935 suppl., 3863-1. State board of health, *op. cit.*, Rule LB4, p. 32.

treatment;⁵⁵ formerly ordered hydrophobia-infected animals quarantined or killed;⁵⁶ and formerly, in case there was danger of the outbreak or spread of hydrophobia, ordered the muzzling or quarantining of all animals, of kinds designated by him, within his jurisdiction, with the consent and aid of the sheriff.⁵⁷

He receives a book of instructions and various printed forms from the state board of health;⁵⁸ keeps complete records of his work;⁵⁹ and makes weekly,⁶⁰ monthly,⁶¹ quarterly,⁶² and other reports to the state board of health.⁶³ A retiring health officer may keep possession of the books of his office for 10 days after surrendering his office to his successor, in order to make up reports for the last month of his incumbency; and, after such 10 days, said books (including book of instructions) and all blank forms and supplies must be delivered to the new incumbent, who must immediately bring all records up to date.⁶⁴

420. RECORD OF BIRTHS, 1882-. 9 vols.

Record of births reported to county health officer, showing name, sex, and date and place of birth of child; names, addresses, and occupations of parents; number of children born in family; and name and address of attending physician. Arr. chron. by dates of births. Indexed alph. by names of parents; for separate index, 1883-85, see entry 421. Hdw. 360 pp. 18 x 13 x 2½. 8 vols., 1882-Nov. 26, 1923, sher. off.; 1 vol., Nov. 27, 1923-, hlt. off. off., Battle Ground, Ind.

⁵⁵ Acts 1911, ch. 98, sec. 3 (repealed by Acts 1935, ch. 271, sec. 1). State board of health, *op. cit.*, Rules 41-43, p. 28.

⁵⁶ Acts 1911, ch. 98, sec. 4 (repealed by Acts 1935, ch. 271, sec. 1).

⁵⁷ Acts 1911, ch. 98, sec. 5 (repealed by Acts 1935, ch. 271, sec. 1).

⁵⁸ Acts 1907, 1913, Burns 35-116; Baldwin 8399. State board of health, *op. cit.*, pp. 3, 4, 12.

⁵⁹ Acts 1891, 1909; Burns 35-111, 35-115; Baldwin 8405, 8398. State board of health, *op. cit.*, Rules 3, 4, 6, 7, pp. 9-12.

⁶⁰ State board of health, *op. cit.*, Rule 6 p. 11.

⁶¹ Acts 1907, 1919, 1929, 1935; Burns, 1940 suppl., 35-703; Baldwin, 1935 suppl., 13394. State board of health, *op. cit.*, Rules 3, 4, pp. 9, 10.

⁶² State board of health, *op. cit.*, Rule 1, 5, pp. 9, 11.

⁶³ Acts 1891, 1909; Burns 35-111; Baldwin 8405. Acts 1935; Burns, 1940 suppl., 35-118; Baldwin, 1935 suppl., 8404-1. State board of health, *op. cit.*, Rule 10, p. 13.

⁶⁴ State board of health, *op. cit.*, Rule 7(2), p. 12.

421. INDEX TO BIRTHS, 1888-85. 1 vol.

Index to Record of Births, entry 420, showing date of birth, names of parents, and volume and page reference to recording. Arr. alph. by names of parents. Hdw. 500 pp. 16 x 12 x 3. Aud. off.

422. RECORD OF MARRIAGES, 1882-95, 1897-. 12 vols. (1, 4; 10 vols. unlabeled).

Record of marriage returns reported by clerk to health officer, showing name, age, color, occupations, dates and places of birth, and prior marital history of bride and groom; date and place of marriage; names of parents and witnesses; and name and title of person officiating. Arr. chron. by dates of marriages. Indexed alph. by names of brides and grooms. Hdw. 399 pp. 17 x 12 x 2½. 11 vols., 1882-95, 1897-1928, sher. off.; 1 vol., 1929-, hlth. offr. off., Battle Ground, Ind.

For other marriage records, see entries 37-40.

423. RECORD OF CONTAGIOUS DISEASES, 1882-. 5 vols.

Record of contagious and infectious diseases reported to county health officer, showing date of report; names of family, patient, disease, person reporting, and person recording report; age, sex, color, and address of patient; dates of illness and quarantine; date of raising quarantine; and result of case. Arr. chron. by dates of reports. Indexed alph. by names of patients. Hdw. 250 pp. 16 x 12 x 3. 4 vols., 1882-Jan. 4, 1933, C. C. sher. pvt. off.; 1 vol., Jan. 12, 1933-, hlth. offr. off., Battle Ground, Ind.

424. DEATH RECORD, 1882-. 12 vols.

Record of deaths reported to health officer, showing date of death; certificate number; name, age, sex, color, occupation, residence, and marital status of deceased; date and place of birth; parents' birthplaces; name of father; maiden name of mother; date of return; and names of mortician and place of interment. Arr. chron. by dates of deaths. Indexed alph. by names of deceased; for separate index, 1882-1926, see entry 425. Hdw. 239 pp. 18 x 12 x 3. 10 vols., 1882-1926, C. C. sher. pvt. off.; 2 vols., 1927-, hlth. offr. off., Battle Ground, Ind.

425. GENERAL INDEX. 1882-1926. 1 vol.

Index to Death Record, entry 424, showing certificate number, name of decedent, and volume and page reference to recording. Arr. alph. by names of decedents. Hdw. 100 pp. 18 x 12 x 1. C. C. Sher. pvt. off.

XL. COUNTY DEPARTMENT OF PUBLIC WELFARE

LEGAL STATUS

The county department of public welfare has existed in Tippecanoe County since 1936 under the mandatory requirements of an act of 1936. The department's affairs are administered by the county board of public welfare and a county director of public welfare.¹ The department is a legal entity and its official name is "The County Department of Public Welfare of Tippecanoe County." It may sue and be sued in that name.²

Before the present system of welfare was organized, the county administered aid to the poor and needy (including children, insane persons, and blind persons) through discretionary powers granted to the board of county commissioners. County asylums were established at an early date to care for those who were without homes and means to care for themselves.³

¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1117 to 52-1119, 52-1126; Baldwin, 1937 suppl., 14078-18 to 14078-20, 14078-27.

² Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1122(a); Baldwin, 1937 suppl., 14078-23.

³ Const. 1816, art. 9, sec. 4. Const. 1851, art. 9, sec. 3. Acts 1807, ch. 23. Acts 1813, ch. 4, sec. 2. Acts 1816-17, ch. 26, sec. 1. Acts 1817-18 (general), ch. 14. Acts 1821-22, ch. 18, sec. 1. Acts 1822-23, ch. 88, sec. 3. Rev. L. 1824, ch. 15, sec. 7; ch. 72. Rev. L. 1831, ch. 20, sec. 20; ch. 69. Rev. Stat. 1838, ch. 21, secs. 20-22; ch. 52, sec. 3; ch. 73, sec. 2; ch. 79. Acts 1839-40 (general), ch. 51. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 69-71; ch. 19. Acts 1849-50 (general), ch. 13. 1 Rev. Stat. 1852, ch. 3, sec. 8; ch. 81; ch. 110, secs. 5, 17. Acts 1857, ch. 8. Acts 1859, ch. 5, sec. 1. Acts 1865, ch. 40. Acts 1865 (Spec. Sess.), ch. 7, sec. 3. Acts 1873, ch. 41, sec. 1. Acts 1875, ch. 119, secs. 1, 2. Acts 1881, ch. 7. Acts 1881 (Spec. Sess.), ch. 81. Acts 1885 (Spec. Sess.), chs. 9, 34. Acts 1887, ch. 56, sec. 1. Acts 1889, ch. 78, sec. 3; ch. 107, secs. 1, 9. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1899, chs. 76, 87; ch. 90, secs. 3, 6; ch. 154, sec. 33. Acts 1901, chs. 147, 155, 195, 206. Acts 1903, chs. 106, 144, 247. Acts 1907, ch. 65, secs. 1, 2. Wayne Twp. v. Brown, 205 Ind. 437, 136 N. E. 841 (1933).

Children. Rev. L. 1824, ch. 72, sec. 6. Acts 1827-28, ch. 46, sec. 1. Rev. Stat. 1838, ch. 79, secs. 6, 11. 1 Rev. Stat. 1852, ch. 81, secs. 28, 32; ch. 68, sec. 3. Acts 1875, ch. 119, secs. 1, 2. Acts 1881, ch. 7. Acts 1881 (Spec. Sess.), ch. 81, sec. 10. Acts 1885, ch. 36, sec. 1. Acts 1885 (Spec. Sess.), ch. 34. Acts 1887, ch. 86; ch. 107. Acts 1889, ch. 107, sec. 1. Acts 1891, ch. 62, sec. 1. Acts 1897, ch. 40. Acts 1901, ch. 173, sec. 5.

Insane. Acts 1817-18 (general), ch. 63, sec. 5. Acts 1839-40 (general), ch. 52, sec. 1. Rev. Stat. 1843, ch. 46, sec. 181. 1 Rev. Stat. 1852, ch. 81, sec. 8.

Blind. Acts 1839-40 (general), ch. 51. Acts 1849-50 (general), ch. 13. Acts 1857, ch. 8.

An act of 1933 provided a system of old-age pensions in all counties of the state.⁴ The board of commissioners of each county had exclusive control and administration of the pensions.⁵ Pensions up to \$15 per month were authorized for persons who had attained the age of 70 years. Many provisions of this law were similar to provisions contained in the present welfare law.⁶ In counties with 500 or more applicants for pensions, the board of commissioners could employ one investigator for each 500 applicants at a salary set by the board of commissioners, not to exceed \$1,800 annually.⁷

The methods of welfare assistance mentioned in the last paragraph and in the separate essays entitled "Board of County Charities and Corrections (1905-36)" and "Board of Children's Guardians (1901-36)" were merged into the Welfare Act of 1936 (the present law).⁸

Since 1897 township poor relief has been administered by township trustees from funds raised by township tax levies. Such poor relief is separate and distinct from the public welfare system discussed herein, but the two systems are often confused by the public.⁹

The county board of public welfare consists of five members appointed for 4-year terms by the judge of the circuit court. Each member serves until his successor is appointed and qualified. At least two members must be women and not more than three members may be adherents of the same political party. The members must have resided in the county for 2 years before appointment, must have a definite and recognized interest in public welfare, and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of this office.¹⁰

The judge of the circuit court may, at any time, after due notice in writing, remove any member of the county board

⁴ Acts 1933, ch. 36 (repealed by Acts 1936 (Spec. Sess.), ch. 3, sec. 129).

⁵ *Ibid.*, sec. 2.

⁶ *Ibid.*, secs. 3-7.

⁷ *Ibid.*, sec. 26.

⁸ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-122.

⁹ Acts 1897, ch. 151. Acts 1901, ch. 147, secs. 1-39. Acts 1935; Burns, 1940 suppl., 52-145 to 52-182a; Baldwin, 1935 suppl., 13320-2 to 13359-12.

¹⁰ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns; 1940 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

of public welfare for misconduct, incapacity, or neglect of duty. A vacancy in the membership of this board is filled through appointment by the judge of the circuit court; and the appointee holds office for the unexpired term and until his successor is appointed and qualified.¹¹

Regular meetings of the county board of public welfare are held once a month. The August meeting is known as the annual meeting. Other meetings may be held pursuant to call. Three members of the board constitute a quorum for transacting business.¹²

The members of the county board of public welfare serve without compensation, but each member is entitled to receive 5 cents per mile for each mile actually and necessarily traveled in attending board meetings and state conventions of county board members.¹³

Executive and administrative work of the county department of public welfare is carried on by the county director of public welfare, who serves as secretary of the board. He is appointed by the county board of public welfare to serve for an indefinite term. The appointment is made solely on the basis of merit from eligible lists established by the Indiana State Department of Public Welfare. He must have resided in the county for 2 years before appointment, unless no suitable person with such residence is available. The director must take an oath that he will support the State and Federal Constitutions and will faithfully discharge the duties of his office. He must post bond in an amount (not exceeding \$5,000) fixed by the state department of public welfare, to be approved by the judge of the circuit court and filed in the office of the clerk of the circuit court.¹⁴

The county director of public welfare may be removed from office at any time by the county board of public welfare. If the state department, after notice and hearing, determines that the county director's duties, functions, and activities are not performed in compliance with the welfare laws and regulations, the state department may order the county board to remove him from office. Vacancies in the office of county director are filled in the manner in which

¹¹ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1118; Baldwin, 1937 suppl., 14078-19.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Const. 1851, art. 15, sec. 4. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054. Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

original appointments are made, except as otherwise stated hereinafter. If a successor is not appointed within 30 days after removal is ordered by the state department, or if any vacancy is not filled by the county board within 30 days after the vacancy occurs, the state department may appoint a successor to serve at the pleasure of the state department.¹⁵

The county director of public welfare receives a salary in an amount fixed by the county board of public welfare, within the salary ranges established by the state department. In Tippecanoe County this salary is now \$2,100 per year. He also receives 5 cents per mile for each mile necessarily traveled in the discharge of his duties.¹⁶

The county director, with the approval of the county board, appoints the assistants in the department, from eligible lists compiled by the state department of public welfare, and determines the salaries of these assistants. Each assistant must have been a resident of the county for 2 years before his appointment, unless a suitable person with such residence is not available.¹⁷

FUNCTIONS AND RECORDS

Subject to the rules and regulations prescribed by the state department of public welfare, the county department is charged by statute with the administration of old-age assistance; aid to dependent children in their own homes; the care and treatment of dependent, neglected, and handicapped children and those in danger of becoming delinquent; and services and assistance to the blind and to persons otherwise handicapped. The county director performs the duties prescribed by law for the probation officer of any court having jurisdiction of persons on probation (concerning any welfare matters before the court), when so directed by such court; but he cannot hold the office of probation officer. The county department must report to the state department "at such times and in such manner as the state department may, from time to time, direct." Necessary quarters for the county department must be provided by the board of commissioners.¹⁸

¹⁵ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1119; Baldwin, 1937 suppl., 14078-20.

¹⁶ *Ibid* Information obtained from Thurman A. Gottschalk, administrator of the state department of public welfare, on December 2, 1940, by William E. Chambers.

¹⁷ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1123; Baldwin, 1937 suppl., 14078-24.

¹⁸ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1113, 52-1120; Baldwin, 1937 suppl., 14078-21. *Opinions of the Attorney General of Indiana, 1936*, p. 155.

Expenditures for welfare assistance and administrative expenses (including rent of office quarters) of the county department are paid from the county welfare fund raised by a separate tax levy,¹⁹ to which are added such repayments as may be made under legal liability by recipients, their parents, children, or other persons liable for their support.²⁰ Old-age assistance certificates, filed with the recorder, establish liens against estates of recipients to insure reimbursement.²¹

As partial reimbursement for the amount paid for assistance to aged persons and dependent children, the county receives 50 percent from the Federal Government and 60 percent of the remainder from the state.²² Any funds received by the state from the Federal Government for child welfare and the care and treatment of crippled children is divided among the counties as the state board may determine.²³ For personal services in the county administration of the welfare act, the county receives 50 percent from the state, plus a proportional part of such other funds as may be received by the state from the Federal Government to apply on administrative expenses. These reimbursements are paid into the county welfare fund.²⁴

All claims for administrative expenses are subject to allowance by the board of commissioners. Claims for assistance are determined by the department and approved by the director, and need not be allowed by the board of commissioners.²⁵ The county board of public welfare may accept gifts of personal property or income from real estate, for the homes or support of dependent children.²⁶

¹⁹ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1120, 52-1301; Baldwin, 1937 suppl., 14078-21, 14078-98.

²⁰ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1263; Baldwin, 1937 suppl., 14078-94.

²¹ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1207; Baldwin, 1937 suppl., 14078-38.

²² Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1249, 52-1220; Baldwin, 1937 suppl., 14078-80, 14078-51.

²³ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1254, 52-1258; Baldwin, 1937 suppl., 14078-85, 14078-89.

²⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1124a; Baldwin, 1937 suppl., 14078-24a. Information obtained from Thurman A. Gottschalk, administrator of the state department of public welfare, on December 2, 1940, by William E. Chambers.

²⁵ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1124; Baldwin, 1937 suppl., 14078-25.

²⁶ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1122(b); Baldwin, 1937 suppl., 14078-23.

The auditor keeps the records relating to the county welfare fund and its financial transactions.²⁷ The county department keeps such records and accounts as are required by the state department of public welfare.²⁸ All records are confidential, except the following: (a) Applications for assistance, (b) awards, and (c) modification and revocation of awards.²⁹

PROCEEDINGS

426. MINUTE BOOK, 1936-. 1 vol.

Minutes of meetings of board of public welfare, showing date and place of meeting, names of members present, proceedings of board, and actions taken. Arr. chron. by dates of meetings. No index. Typed. 124 pp. 12 x 9 x 1½. Pub. welf. off.

427. RECOMMENDATIONS COUNTY DIRECTOR PUBLIC WELFARE, 1936-. 1 vol.

Record of recommendations of county director and action of county board, showing date of recommendation; application serial number; name, age, sex, color, and address of applicant; date of award, rejection, or revocation; amount of award; and nature of recommendations. Arr. chron. by dates of recommendations. No index. Typed. 200 pp. 16 x 12 x 2. Pub. welf. off.

OLD-AGE ASSISTANCE

(See also entries, 92, 93, 328-330)

428. CARD INDEX, 1936-. 1 f. d.

Index to Welfare Record, entry 429; Old-Age Assistance, entry 431; Old-Age Assistance, entry 432; Dependent Child Assistance, entry 433; Crippled Childrens' Cases, 1937-, entry 434; and Blind Assistance, entry 435, showing dates of application and award, rejection, or withdrawal, name and address of applicant, nature of assistance, application code and serial numbers, amount of award, volume and page reference to recording, and file box reference. Arr. alph. by names of applicants. Typed. 5 x 12 x 28. Pub. welf. off.

²⁷ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1401; Baldwin, 1937 suppl., 14078-113.

²⁸ Acts 1936 (Spec. Sess.); Burns, 1940 suppl., 52-1260, 52-1402; Baldwin, 1937 suppl., 14078-91, 14078-114.

²⁹ Acts 19 6 (Spec. Sess.); Burns, 1940 suppl., 52-1262; Baldwin, 1937 suppl., 14078-93.

429. WELFARE RECORD, July 1936-. 1 vol.

Register of applications for assistance, including:

- i. Applications for old-age assistance, showing application number; dates of filing and action; name, age, and sex of applicant; and name of visitor assigned.
- ii. Applications for aid to blind, showing application number; dates of filing and action; name, age, and sex of applicant; name of visitor assigned; and action taken by state department of public welfare.
- iii. Applications for aid to dependent children, showing dates of application and filing, names of applicant and visitor assigned, application number, and action taken.

Arr. num. by application numbers. For index, see entry 428.

Typed. 500 pp. 12 x 8 x 3. Pub. welf. off.

430. OLD-AGE PENSION, 1934-June 1936. 2 vols. (1, 2).

Transcripts of old-age assistance applications, showing date of application; name, address, age, sex, color, and family history of applicant; statement of ownership of property; date and nature of action taken; and amount of award. Arr. chron. by dates of actions. Indexed alph. by names of applicants. Typed. 500 pp. 18 x 12 x 3. Pub. welf. off.

431. OLD-AGE ASSISTANCE, 1936-. 4 f. d.

Original documents of active and inactive old-age assistance cases, including applications, statements of relatives, face sheets, recommendations, visitors reports, certificate of award, employment record, statement of ownership of real estate, life insurance assignments, and rejections and cancellations, showing date, nature, and number of document; name, age, and family history of applicant; and amount of assistance granted. Arr. alph. by names of applicants. For index, see entry 428. Hdw. and typed. 12 x 12 x 28. Pub. welf. off.

432. OLD-AGE ASSISTANCE, 1936-. 1 vol.

Record of awards granted and payments made to the aged, showing application code and serial numbers; name and address of recipient; amounts paid under 1933 and 1936 acts; amounts paid in county of former residence; assignment of life insurance and other assets; and dates, numbers, and amounts of warrants. Arr. num. by application nos. For index, see entry 428. Typed. 550 pp. 12 x 8 x 3. Pub. welf. off.

DEPENDENT CHILDREN

433. DEPENDENT CHILD ASSISTANCE, 1936-. 2 f. d.

Original documents of active and inactive cases of assistance for dependent children, including applications, visitors' reports, recommendations, certificates of award, rejections and withdrawals, showing date, nature, and number of document; name, age, sex, color, and family history of child; name of parent, guardian, or custodian; and amount of award. Arr. alph. by names of applicants. For index, see entry 428. Hdw. 12 x 12 x 28. Pub. welf. off.

434. CRIPPLED CHILDRENS' CASES, 1937-. 1 f. d.

Original documents of cases of assistance to crippled children, including applications, recommendations, physicians' and visitors' reports, authorizations, schedule of claims paid, and rejections, showing dates of document and filing; application code and serial numbers; names of child, parent, guardian or custodian, visitor, and physician; age, sex, color, date of birth, and nature of affliction of child; and date, nature, and number of warrants. Arr. num. by application code and serial nos. For index, see entry 428. Hdw. and typed. 12 x 12 x 28. Pub. welf. off.

BLIND

435. BLIND ASSISTANCE, 1936-. 1 f. d.

Original documents of active and inactive blind cases, including applications, notices to report for examinations, physician's reports and certificates of awards and withdrawals, showing date of document; application code, serial, and certificate numbers; name, address, and personal history of applicant; value of personal and real property owned; name of physician; and amount of award. Arr. num. by application nos. For index, see entry 428. Hdw. and typed. 12 x 12 x 28. Pub. welf. off.

CLAIMS

436. [CLAIMS], 1936-. 1 f. d.

Original claims of staff members and employees for services rendered, and vendors for supplies furnished, showing date, nature, number, and amount of claim; itemized list of services or supplies; and name of claimant. Arr. chron. by dates of claims. No index. Hdw. and typed. 5 x 12 x 28. Pub. welf. off.

XLI. BOARD OF COUNTY CHARITIES AND CORRECTIONS (1905-36)

LEGAL STATUS

From 1905 until 1936 Tippecanoe County had a board of county charities and corrections, composed of 6 members appointed for 3-year terms by the judge of the circuit court upon petition of 15 reputable citizens. Two members were appointed each year. Not more than 4 were men and not more than 3 were of the same political party. A chairman and secretary were selected from the members of the board.¹

FUNCTIONS AND RECORDS

The purpose of the board was to give advice on the operation of correctional and charitable institutions of the county. The board met quarterly; visited and inspected, at least once each quarter, the poor asylum, county jail, orphans' home, and other charitable and correctional institutions receiving support from public funds; examined every department of each institution, studied rules laid down by the board of commissioners for their operation and suggestions offered by the board of state charities;² made reports, from time to time, of suggested improvements to the board of commissioners or the officials having jurisdiction; made quarterly reports to the board of commissioners on the condition of the institutions visited; and reported annually to the judge of the circuit court. Copies of these reports were sent to the board of state charities.³

This board was abolished in 1936 and its duties were transferred to the county department of public welfare.⁴

XLII. BOARD OF CHILDREN'S GUARDIANS (1901-36)

LEGAL STATUS

From 1901 until 1936 Tippecanoe County had a board of children's guardians, composed of six members appointed for

¹ Acts 1899; Burns 22-2901, 22-2902; Baldwin 4116, 4117. Civil Order Book of Tippecanoe Circuit Court, 92:111, 12.

² Acts 1899; Burns 22-2903; Baldwin 4118.

³ Acts 1899; Burns 22-2903, 22-2904; Baldwin 4118, 4119.

⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1121; Baldwin, 1937 suppl., 14078-22.

See the essay entitled, "County Department of Public Welfare."

3-year terms by the judge of the circuit court. Two members were appointed each year. Three members were women and three or more were parents.¹

FUNCTIONS AND RECORDS

This board had the care and supervision of neglected and dependent children residing in the county. The board could indenture children as apprentices, authorize adoption without the consent of parents, or make other suitable disposition of such children. The action of the board was subject to the approval of the circuit court.² The board of commissioners had the authority to provide a house of suitable size and convenience for the accommodation of the children placed in the custody of the board of children's guardians. The board of commissioners provided funds necessary for employment of agents and assistants of the board of children's guardians, and for defraying all operating expenses of the home, and made an allowance of 30 cents per day for food and clothing of each child under the care of the board of children's guardians.³

This board was abolished in 1936, and its duties were transferred to the county department of public welfare.⁴

XLIII. SURVEYOR

LEGAL STATUS

The office of surveyor has existed in Tippecanoe County ever since 1826 under the mandatory requirements of acts of 1824, 1831, 1833, 1838, and 1843 and the Constitution of 1851. The surveyor is elected by the voters of the county for a 2-year term, without restriction on reelection.¹ His term begins on the first day of January following his election.²

¹ Acts 1901, 1923, 1927; Burns 22-2801; Baldwin 5684.

² Acts 1901, 1923; Burns 22-2802; Baldwin 5685.

³ Acts 1901, 1919, 1923; Burns 22-2805; Baldwin 5688.

⁴ Acts 1936 (Spec. Sess.), 1937; Burns, 1940 suppl., 52-1121, 52-1410; Baldwin, 1937 suppl., 14078-22, 14078-1222. See the essay entitled "County Department of Public Welfare."

¹ Const. 1851, art. 6, sec. 2. 1 Rev. Stat. 1852; Burns 49-3301; Baldwin 5504. See footnotes 15 and 16 herein.

² Acts 1929; Burns 49-207; Baldwin 5566.

He is commissioned by the Governor of Indiana³ and holds office until his successor is elected and qualified.⁴ The surveyor must be an elector of the county at the time of his election, must have been an inhabitant thereof throughout the preceding year,⁵ must reside within the county after his election, and must not hold any other lucrative office.⁶ He must post bond in an amount of not less than \$5,000, to be approved by the board of commissioners and filed with the clerk of the circuit court,⁷ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁸

The surveyor is entitled to receive a regular salary of \$1,600 per year for his services as county surveyor. The law provides that his salary shall be one and one-half times that amount if he is "a qualified licensed engineer." While serving as county highway supervisor he is entitled to receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). He cannot receive both salaries. When he furnishes his own or a hired conveyance, he receives 6 cents for each mile necessarily traveled by him while performing his duties concerning drainage and 5 cents for each mile necessarily traveled in the

³ Const. 1851, art. 15, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. 1 Rev. Stat. 1852; Burns 49-201; Baldwin 13095.

⁴ Const. 1851, art. 15, sec. 3. Acts 1822-23, ch. 76, sec. 2. Pursel v. State *ex rel.* Roney, 111 Ind. 519, 12 N. E. 1003 (1887); Boyles v. State *ex rel.* Riggs, 112 Ind. 147, 13 N. E. 415 (1887).

⁵ Const. 1851, art. 6, sec. 4.

The surveyor is not required to be a registered professional engineer or land surveyor. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

⁶ Const. 1851, art. 2, sec. 9; art. 6, sec. 6. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1838, ch. 103, sec. 1. State *ex rel.* Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914). *Opinions of the Attorney General of Indiana, 1934*, p. 500; 1935, p. 103.

⁷ Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1838, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-105, 49-120; Baldwin 13063, 13068. Acts 1913; Burns 49-3302 to 49-3304; Baldwin 5505 to 5507.

⁸ Const. 1851, art. 15, sec. 4. Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Rev. Stat. 1838, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 2. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

discharge of his duties as county highway supervisor.⁹ He is not entitled to retain, as compensation for himself, any fees collected by him.¹⁰

For sufficient legal grounds the surveyor may be removed from office by the circuit court, after trial by jury on an accusation presented by the grand jury or verified by the oath of any person; and such removal is subject to review by the supreme court.¹¹ If the surveyor is convicted of a felony the judgment of conviction must declare his office vacant.¹²

Any vacancy in the office of surveyor is filled through appointment by the board of commissioners. The appointee must take oath and post bond as was required of his predecessor, and he holds office for the unexpired term and until his successor is elected and qualified.¹³

The board of commissioners may appoint, on the recommendation of the surveyor, such number of deputy surveyors as may be necessary; determine whether they be full-time or part-time employees; and fix the salary of each deputy in an amount not exceeding \$200 per month. Such salaries are paid from the county treasury after an appropriation therefor is made by the county council. The surveyor may require any deputy to give bond. The deputies must take an oath of office, may perform all of the surveyor's official duties, are subject to the same regulations and penalties, and may be removed from office by the board of commissioners. The township trustees are ex officio deputy surveyors (without additional compensation) in their respective townships.¹⁴

⁹ Acts 1925, ch. 120, sec. 1. Acts 1933; Burns 27-103, 36-1101, 36-1110, 49-1004, 49-1010; Baldwin 5739, 8699, 8078, 7534, 7540.

He receives no additional compensation for doing engineering work for the county highway supervisor. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

¹⁰ Acts 1933; Burns 49-1005; Baldwin 7535.

¹¹ Const. 1851, art. 2, secs. 6, 7; art. 6, sec. 8. Rev. Stat. 1843, ch. 10, sec. 3. Acts 1897, 1899; Burns 49-821 to 49-834, 49-836; Baldwin 13154 to 13166, 13050, 13168. Acts 1875; Burns 49-837; Baldwin 13052.

¹² Acts 1897, 1899; Burns 49-834; Baldwin 13050.

¹³ Const. 1851, art. 6, sec. 9. Acts 1881 (Spec. Sess.); Burns 29-701; Baldwin 7081. 1 Rev. Stat. 1852; Burns 49-405, 49-408, 49-409; Baldwin 13104, 13106, 13107. *State ex rel. Culbert v. Linkhauer*, 142 Ind. 94, 41 N. E. 325 (1895). Information obtained from Omer Stokes Jackson, Attorney General of Indiana, on August 29, 1939, by W. Davis Hamilton.

¹⁴ Acts 1817-18 (general), ch. 30, sec. 3. Rev. L. 1824, ch. 104, sec. 2. Acts 1827-28, ch.

From the organization of Tippecanoe County in 1826¹⁵ until 1831 a county surveyor was appointed for an indefinite term by the Governor of Indiana. From 1831 until 1833 such appointments were made by the board doing county business. From 1833 until 1843 he was appointed for a 3-year term by the circuit court. From 1843 until 1851 the board of commissioners made these appointments.¹⁶

FUNCTIONS AND RECORDS

The surveyor has charge, under the direction of the board of commissioners, of all surveying and civil engineering of the county; has charge of the preparation of plans and specifications for the construction of all roads, bridges, ditches, drains, and levees; supervises such construction; has charge of the maintenance of all ditches and drains;¹⁷ acts with viewers in locating new roads and ditches;¹⁸ must clean driftage and obstructions from streams when landowners refuse to do so;¹⁹ may advertise and let contracts for drainage ditches;²⁰ must approve all contracted construction work before claims thereon are allowed;²¹ and formerly made inspections and surveys on certain lands owned by the United States Government, and made reports thereon to the Governor of the state.²² If the surveyor is not a licensed engineer

89. Rev. L. 1831, ch. 102, secs. 2, 4. Rev. Stat. 1838, ch. 103, secs. 2, 4. Rev. Stat. 1843, ch. 10, secs. 20, 22. Acts 1933; Burns 27-102; Baldwin 5738. 1 Rev. Stat. 1852, Acts 1855, 1925; Burns 49-501; Baldwin 13108. 1 Rev. Stat. 1852; Burns 49-502, 49-3305, 49-3307; Baldwin 13109, 5511, 5513. Acts 1899; Burns 49-3306; Baldwin 5512. Acts 1933, 1935, 1937; Burns, 1940 suppl., 49-3330; Baldwin, 1937 suppl., 5511-1. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

¹⁵ Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act).

¹⁶ Acts 1817-18 (general), ch. 30, sec. 1. Rev. L. 1824, ch. 104, sec. 1. Rev. L. 1831, ch. 102, sec. 1. Acts 1832-33, ch. 74, secs. 4, 5. Rev. Stat. 1838, ch. 103 (first act), sec. 1; ch. 103 (second act), secs. 4, 5. Rev. Stat. 1843, ch. 4, sec. 48; ch. 10, sec. 1.

¹⁷ Acts 1891, ch. 115, sec. 4; ch. 196, secs. 3, 22, 23. Acts 1901, ch. 100, sec. 3. Acts 1933; Burns 27-101, 27-103, 27-104, 27-107 to 27-109, 27-111 to 27-116, 27-202; Baldwin 5737, 5739, 5740, 5743 to 5745, 5747 to 5752, 5776. Acts 1919; Burns 36-306, 36-307, 36-325; Baldwin 8864, 8865, 8877. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

Work done by employees of Civilian Conservation Corps or Work Projects Administration under supervision of the county surveyor. Acts 1939; Burns, 1940 suppl., 27-233; Baldwin, 1939 suppl., 5794-9.

¹⁸ Acts 1933; Burns 27-109; Baldwin 5745. Acts 1905; Burns 36-221; Baldwin 8777.

¹⁹ Acts 1933; Burns 27-207; Baldwin 5781.

²⁰ Acts 1933; Burns 27-118; Baldwin 5754.

²¹ Acts 1899; Burns 26-539; Baldwin 5404.

²² Rev. L. 1831, ch. 83, sec. 1.

or is disqualified from performing his duties by reason of ownership of lands or kinship to any person whose lands are affected, the court appoints a disinterested licensed engineer to act in the matter.²³ From 1885 until 1933 the surveyor served ex officio as a drainage commissioner with a drainage commissioner appointed by the board of commissioners.²⁴

Since 1933 it has been the duty of the county surveyor to supervise the maintenance of county highways, bridges, and culverts, unless the board of commissioners appoints another person to serve as county highway supervisor.²⁵ Tippecanoe County now has a county highway supervisor other than the surveyor.²⁶ The surveyor is required to attend all sessions of the annual road school conducted by Purdue University. His expenses for such attendance are paid from the general fund of the county.²⁷

On application of the surveyor it is the duty of the board of commissioners to provide for the location and establishment of a true and permanent meridian line at or near the county seat and upon public lands belonging to the county. After the completion and location of such established meridian line, the surveyor must file with the recorder a complete description of the marked meridian line and thereafter check his instruments against the line as often as necessary.²⁸

The surveyor administers certain oaths,²⁹ takes acknowledgments of mortgages and deeds for the conveyance of real estate,³⁰ and makes surveys to establish lines and corners of any lands in the county when requested to do so.³¹ Surveys made by the surveyor are prima facie evidence in favor

²³ Acts 1819-20, ch. 24. Rev. L. 1824, ch. 104, sec. 3. Rev. L. 1831, ch. 102, sec. 3. Rev. L. 1838, ch. 103, secs. 3, 20. Acts 1907, ch. 252, secs. 3, 20. Acts 1933; Burns 27-102; Baldwin 5738. Acts 1911; Burns 49-3309; Baldwin 5508.

²⁴ Acts 1885 (Spec. Sess.), ch. 40, sec. 1. Acts 1905, ch. 157, secs. 1, 14. Acts 1907, ch. 252, secs. 1, 21. Acts 1933, ch. 264, sec. 81.

²⁵ Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708.

²⁶ See the essay entitled, "County Highway Supervisor."

²⁷ Acts 1925; Burns 49-3323; Baldwin 5520.

²⁸ Acts 1895; Burns 49-3327, 49-3328; Baldwin 10849, 10850.

²⁹ Acts 1827-28, ch. 89. Rev. Stat. 1838, ch. 103, sec. 4. 1 Rev. Stat. 1852; Burns 49-3316; Baldwin 5518.

³⁰ 1 Rev. Stat. 1852, Acts 1857; Burns 49-3317; Baldwin 5519.

³¹ Rev. L. 1831, ch. 102, sec. 6. Acts 1828-29, ch. 94, sec. 2. Acts 1832-33, ch. 74, sec. 3. Rev. Stat. 1838, ch. 103, sec. 1. Rev. Stat. 1843, ch. 10, sec. 15. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311, 49-3312; Baldwin 5509, 5510. Acts 1885; Burns 55-2102; Baldwin 14321.

of the corners established and the lines run, but an appeal to the circuit court may result in a resurvey by some other competent person.⁸² For his services other than for the county he charges the fees provided by statutory schedule and pays the same over to the county treasurer.⁸³

The deputies return to the surveyor all field notes taken by them.⁸⁴ The surveyor is required to preserve a copy of the original field notes of the surveys of the townships in his county,⁸⁵ and keep a record of all surveys made by him.⁸⁶

SURVEYS

437. SURVEYOR'S RECORD, 1836-. 5 vols. (A-E).

Record of surveys of lands in county, including a plat of each survey, showing date of survey, location and description of land, and name of owner. Arr. chron. by dates of surveys. Indexed alph. by names of owners. Hdw. 645 pp. 14 x 10 x 3. Surv. off.

438. FIELD NOTES AND PLATS, 1819-61. 1 vol.

Record of field notes made from original United States and subsequent surveys, including a plat of each section, showing dates of survey and recording; names of townships; section, township, and range lines and numbers; corners; acres; and drainage. Arr. by names of twps., thereunder num. by range nos. No index. Hdw. 393 pp. 14 x 9 x 2½. Surv. off.

PUBLIC IMPROVEMENTS

(See also entries, 13-17, 315, 316, 460-464)

439. ROAD, BRIDGE, AND DITCH RECORDS, 1890-. 24 f. b., 8 f. d.

Documents relative to construction and repair of roads, bridges and ditches, including petitions, surveyors notes and sketches, cost of survey, and damage claims, showing

⁸² 1 Rev. Stat. 1852; Burns 49-3313; Baldwin 5515. Acts 1901; Burns 49-3314; Baldwin 5516.

⁸³ Rev. Stat. 1838, ch. 40, sec. 1. Rev. Stat. 1843, ch. 10, sec. 23. 1 Rev. Stat. 1852, ch. 37, sec. 1. Acts 1853, ch. 44, sec. 1. Acts 1903, ch. 38, sec. 2. Acts 1920; Burns 36-1809; Baldwin 8739. Acts 1933; Burns 49-1005; Baldwin 7533. Acts 1875 (Spec. Sess.); Burns 49-3318; Baldwin 5521. Acts 1895; Burns 49-3329; Baldwin 10851. Acts 1893; Burns 66-121; Baldwin 16187.

⁸⁴ 1 Rev. Stat. 1852; Burns 49-3307; Baldwin 5513.

⁸⁵ Rev. L. 1831, ch. 102, sec. 5. 1 Rev. Stat. 1852, Acts 1911; Burns 49-3309; Baldwin 5508.

⁸⁶ Rev. Stat. 1838, ch. 103 (second act), secs. 2, 3. 1 Rev. Stat. 1852, Acts 1875; Burns 49-3311; Baldwin 5509.

date and nature of document; names of petitioners, surveyor, township, claimants, property owners, and road, bridge or ditch; location and description of survey; amounts of claims; and itemized statement of cost of survey. Arr. chron. by dates of documents. For index, see entry 440. Hdw. F. b., 12 x 6 x 13; f. d., 7 x 24 x 15. Surv. off.

440. INDEX TO GRAVEL ROADS, 1890-. 1 vol.

Index to Road, Bridge, and Ditch Records, entry 439, showing name of project, and file box reference. Arr. alph. by names of projects. Hdw. 250 pp. 16 x 11 x 1¼. Surv. off.

441. DITCH, ROAD AND BRIDGE RECORD, 1890-. 6 pigeonholes (A-C, D-H, I-O, P-S, T-Z; 1 pigeonhole unlabeled).

Petitions for construction or repair of ditches, roads and bridges, showing dates of petition and filing, name and description of project, names of petitioners, instrument number, and action taken. Arr. alph. by names of projects. No index. Hdw. 10 x 6 x 16. Surv. off.

442. TRANSIT AND DITCH LEVEL BOOKS, 1888-. 89 vols.

Handbooks used by surveyor for recording notes in surveys of roads, bridges and ditches, showing date and location of survey, names of surveyor and road, bridge or ditch, repairs needed or new construction, levels, tracings, bench marks, and cornerstones. Arr. chron. by dates of surveys. No index. Hdw. 80 pp. 6 x 4 x 1. Surv. off.

443. DITCHES, BRIDGES, ROADS, 1905-. 88 plans.

Blueprints and tracings of roads, bridges, and ditches, showing name, location, description, and specifications of project; and names of property owners affected by project. Blueprints and tracings. No scale given. Sizes vary. Surv. off.

444. DITCH ASSESSMENT RECORD, 1906-. 1 vol.

Record of assessments for repair and construction of ditches, showing date of assessment; names of ditch, township, and owners of property benefited; location and description of lands assessed; and amount of assessments. Arr. chron. by dates of assessments. Indexed alph. by names of ditches. Hdw. 600. pp. 18 x 12 x 2½. Surv. off.

445. DITCH RECORD, 1907. 1 vol.

Drainage commissioners' record of apportionments of stations to property owners for cleaning and repairing ditches and drains, showing date of report; names of property owner, ditch, and surveyor; location and description of land; specifications of repairs; and amount of benefits assessed. Arr. chron. by dates of reports. Indexed alph. by names of ditches. Hdw. 600 pp. 18 x 12 x 2½. Surv. off.

446. PLANS FOR MOOTS CREEK BRIDGE, 1933. 7 blueprints. Blueprints of Moots Creek Bridge, showing date of blueprint, specifications, and names of county commissioners. Drawn by J. H. Mathews, Lafayette, Ind. Blueprints. Scale: $\frac{3}{8}$ " to 1'. 24 x 36. Surv. off.

447. PLANS FOR CULROAD BRIDGE, 1933. 4 blueprints. Blueprints of Culroad bridge, showing date of blueprint, names of engineer and commissioners, and specifications for bridge. Drawn by J. H. Mathews, Lafayette, Ind. Blueprints. Scale varies. 24 x 36. Surv. off.

448. PLANS AND PROFILES OF PROPOSED STATE HIGHWAYS, 1923-32. 32 blueprints.

Plans and profiles for construction of state highways, showing location and description of state highway. Blueprints. Scale varies. 24 x 36. Surv. off.

449. [RAILROADS], 1915, 1916, 1919, 1932. 57 blueprints. Blueprints of railroad right-of-ways, showing names of railroad and adjoining property owners; and location of right-of-way, stations, and structures. Blueprints. Scale varies. 24 x 62. Surv. off.

MAPS.

450. PLAT MAP, 1905. 3 maps.

Plat maps of Tippecanoe County, showing names of landowners; locations and boundaries of townships, sections, half and quarter sections, ranges, tracts, and parcels; water courses; railways; and highways. Drawn by A. R. Orton. Published at Monticello, Indiana. Tracing. Scale: $1\frac{1}{2}$ " to 1 mi. 44 x 57. Surv. off.

451. TIPPECANOE COUNTY, 1922. 1 map.

Land tenure map, showing boundaries of townships, ranges, and sections; names and locations of rivers, forest reserves, and railroads; and names of owners and acreage of farms. Drawn by E. C. Minton, Lafayette, Indiana. No scale given. 48 x 60. Surv. off.

452. HIGHWAY MAP, not dated. 10 maps.

Communications maps of highways of Tippecanoe County, showing names of townships and neighboring counties; range and township lines; routes of principal highways; and span, width, and load capacity of bridges. Black and white and blueprints. Scale: 1" to 1 mi. 42 x 48. Surv. off.

453. FREE GRAVEL ROAD MAP, not dated. 1 map.

Communications map of free gravel roads, showing names and

course of roads, railroads, telephone, and telegraph lines; and Congressional and civil township boundaries. Blueprint. Scale: 1" to 1 mi. 22 x 27. Surv. off.

454. DRAWINGS OF ROADS, not dated. 16 maps.

Maps of roads in county, showing name, number, location, and description of road. Drawn by E. C. Minton, Lafayette, Indiana. Tracings. No scale given. 22 x 36. Surv. off.

455. LAFAYETTE AND WEST LAFAYETTE, 1923. 1 map.

Political and communications map, showing location of streets and lots; and names and locations of parks, rivers, railroads, hospitals, schools, public buildings, and factories. Drawn by H. Fred Kessener, Lafayette, Indiana. Black and white. Scale: 1" to 240'. 60 x 78. Surv. off.

456. WARD AND PRECINCT MAP, not dated. 1 blueprint.

Political and communications map of Lafayette and West Lafayette, showing names and locations of streets, public buildings, railroads, highways, and rivers; and numbers and boundaries of precincts and wards. Blueprints. Scale: 4" to 1 mi. 24 x 30. Surv. off.

457. PRECINCT MAP, not dated. 1 blueprint.

Political map of Tippecanoe County, showing names and boundaries of townships, numbers and boundaries of wards and precincts. Blueprints. Scale: 1" to 1 mi. 24 x 30. Surv. off.

458. SHADELAND FARM LANDS, 1914. 1 map.

Plat map of Shadeland Farms, showing locations and boundaries of farm tracts, sections, half and quarter sections, corners, fence lines, water courses, and railroads. Drawn by J. E. Lommel. Tracing. Scale: 1" to 330'. 43 x 36. Surv. off.

459. TOPOGRAPHIC SURVEY OF THE GROUNDS OF THE KNIGHTS OF PYTHIAS, not dated. 1 blueprint.

Map of grounds at Lafayette owned by Knights of Pythias, showing locations of water, gas, electricity, drainage, and sewerage connections. Drawn by Claude M. Draper, Lafayette, Indiana. Blueprint. Scale: 1" to 100'. 30 x 36. Surv. off.

XLIV. COUNTY HIGHWAY SUPERVISOR

LEGAL STATUS

The office of county highway supervisor has existed in Tippecanoe County ever since 1933 under the provisions of an act of 1933. The board of commissioners may appoint the county surveyor or some other person to serve as highway

supervisor, subject to removal at any time by the board. If no such appointment is made, the surveyor must perform the duties of this office. A person other than the surveyor now holds this office in Tippecanoe County. The law provides that the highway supervisor shall receive a regular salary in an amount fixed by the board of commissioners, equivalent to not less than \$2 nor more than \$3 per year for each mile of highway under his supervision (to be determined at the January session each year). When he furnishes his own conveyance he receives 5 cents for each mile necessarily traveled by him in the discharge of his official duties.¹

The highway supervisor must be an elector of the county at the time of his appointment; must have been an inhabitant thereof throughout the preceding year;² must reside within the county after his appointment; must not hold any other "lucrative office";³ and must take an oath to support the State and Federal Constitutions and faithfully perform the duties of his office.⁴

The board of commissioners authorizes the employment of teams, trucks, and men necessary to assist in the repair work of roads (under the supervision of the county highway supervisor), and determines the rate of wages and hire therefor.⁵ The board provides all tools and equipment necessary for the maintenance of roads.⁶

Before 1879 the board doing county business had general supervision of the maintenance of county roads, with the aid of district road supervisors, the township trustees, and township supervisors of roads.⁷ From 1879 to 1913 the board of

¹ Acts 1933; Burns 36-1101, 36-1110, 49-1010; Baldwin 8699, 8708, 7540. *Opinions of the Attorney General of Indiana, 1935*, p. 205.

² Const. 1851, art. 6, sec. 4.

A county highway supervisor other than the surveyor is not required to be a qualified registered professional engineer. *Opinions of the Attorney General of Indiana, 1939*, p. 269.

³ Const. 1851, art. 2, sec. 9; art. 6, sec. 6.

Serving as surveyor and also as highway supervisor is not prohibited by the constitution. *State ex rel. Bateman v. Hart*, 181 Ind. 592, 105 N. E. 149 (1914).

⁴ Const. 1851, art. 15, sec. 4. Rev. Stat. 1838, ch. 91, sec. 27. Rev. Stat. 1843, ch. 16, sec. 80. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101, 49-102, 49-104; Baldwin 13054, 13055, 13057.

⁵ Acts 1933; Burns 36-1107; Baldwin 8705.

⁶ Acts 1933; Burns 36-1101, 36-1110; Baldwin 8699, 8708.

⁷ Acts 1816-17, ch. 8. Acts 1817-18 (general), ch. 43. Acts 1818-19 (general), ch. 11. Rev. L. 1824, ch. 87. Rev. L. 1831, ch. 20, sec. 22; ch. 82, sec. 47. Rev. Stat. 1838, ch. 21, sec. 20; ch.

commissioners was an ex officio board of directors for the maintenance of county roads (known as "Board of Turnpike Directors" from 1879 until 1901 and as "Board of Directors" from 1901 to 1913). The board divided the county into three districts, and each director had personal direction of one of such districts with the assistance of a supervisor appointed by him.⁸ In 1913 this board was abolished and the office of county highway superintendent was created. The superintendent was appointed biennially by the board of commissioners and placed in charge of the maintenance of all roads, bridges, and culverts in the county.⁹ In 1933 this office was abolished¹⁰ and the office of county highway supervisor was created.¹¹

FUNCTIONS AND RECORDS

The county highway supervisor has general charge of the maintenance of county roads, bridges, and culverts;¹² divides the county into road districts; maps all existing roads, giving each road a separate name or number and setting forth the length and character of each road and the kind and volume of traffic;¹³ fixes maximum limits of loads for roads, bridges, and culverts; must not spend more than \$50 for the repair of a bridge or culvert without the approval of the board of commissioners;¹⁴ cuts noxious weeds and trims hedges along the roads when the landowners fail to do so;¹⁵ buries or cremates carcasses found on highways or nearby

91. Rev. Stat. 1843, ch. 4, secs. 26, 27, 160; ch. 5, secs. 66-68; ch. 16. 1 Rev. Stat. 1852, ch. 48; ch. 102, secs. 1, 4. Acts 1859, ch. 127, sec. 1.

⁸ Acts 1879 (Spec. Sess.), ch. 115, sec. 1. Acts 1895, ch. 147. Acts 1899, ch. 176, secs. 1, 2. Acts 1901, ch. 202. Acts 1905, ch. 167, sec. 85. Acts 1913, ch. 330, sec. 1. Acts 1932 (Spec. Sess.); Burns 36-901; Baldwin 8711.

⁹ Acts 1913, ch. 330, secs. 1, 2. Acts 1921, ch. 95. State *ex rel.* Bateman v. Hart, 181 Ind. 592, 105 N. E. 149 (1914).

¹⁰ Acts 1933; Burns 36-1113; no Baldwin.

¹¹ Acts 1933; Burns 36-1110; Baldwin 8708.

¹² Acts 1899, ch. 175. Acts 1913, ch. 330, sec. 2. Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹³ Acts 1933; Burns 36-1109, 36-1110; Baldwin 8707, 8708.

¹⁴ Acts 1933; Burns 36-1102, 36-1110; Baldwin 8700, 8708.

¹⁵ Acts 1859, ch. 15, sec. 1. Acts 1859, ch. 15, sec. 1. Acts 1885 (Spec. Sess.), ch. 24. Acts 1899; Burns 15-905; Baldwin 3720. Acts 1891; Burns 30-302; Baldwin 7648. Acts 1915; Burns 36-1805; Baldwin 8618. Acts 1939; Burns, 1940 suppl., 36-714; Baldwin, 1939 suppl., 8619-1.

lands when the owners fail to do so;¹⁶ establishes standards for maintenance according to topography, nature, volume of traffic, and the availability of repair materials; annually makes a budget estimate of the cost of maintenance during the next calendar year;¹⁷ and attends meetings of the board of commissioners¹⁸ and sessions of the annual road school at Purdue University.¹⁹

The records of the county highway supervisor are maps of the highway system made by him,²⁰ report of work in progress,²¹ monthly reports to the board of commissioners of all work done, and an annual report of his work, with a complete statement of all expenditures under his supervision.²²

PUBLIC IMPROVEMENTS

(See also entries 13-17, 315, 316, 439-449)

460. [HIGHWAY SUPERVISOR'S LEDGER], 1914-. 3 vols. (1, 2; 1 vol. unlabeled).

Ledger and payroll, including:

- i. Copies of employee payrolls, showing date of payroll, names of employees, kind of service performed, hours employed, rate per hour, amount earned, and total amount of payroll.
- ii. Record of appropriations and disbursements for construction and maintenance of highways, showing dates and amounts of appropriation and disbursements, name of claimant, amount and nature of claim, account number, and balance or overdraft.

Arr. by names of funds, thereunder chron. by dates of appropriations and disbursements. No index. Hdw. and typed. 200 pp. 9 x 18 x 3. 2 vols., 1914-33, attic stor. rm.; 1 vol., 1934-, hwy. sup. off.

¹⁶ Acts 1903; Burns 16-814, 16-816; Baldwin 3899, 3901.

¹⁷ Acts 1933; Burns 36-1103, 36-1110; Baldwin 8701, 8708.

This budget estimate is under the control of the board of commissioners and may be changed at any time by that board. *Bateman v. State*, 214 Ind. 138, 14 N. E. (2d) 1007 (1938).

¹⁸ Acts 1933; Burns 36-1103, 36-1104, 36-1110; Baldwin 8701, 8702, 8708.

¹⁹ Acts 1933; Burns 36-1110; Baldwin 8708.

²⁰ Acts 1933; Burns 36-1109, 36-1110; Baldwin 8707, 8708.

²¹ Acts 1933; Burns 36-1106, 36-1110; Baldwin 8704, 8708.

²² Acts 1933; Burns 36-1104, 36-1110; Baldwin 8702, 8708.

461. TURNPIKE DIRECTORS' RECORD, 1883-1913. 7 vols. (1 vol. unlabeled; 1-3, 1-3). Discontinued.

Minutes of meeting of board of turnpike directors, showing dates of meeting, names of members present, subjects discussed, and action taken. Arr. chron. by dates of meetings. Indexed alph. by subjects discussed. Hdw. 374 pp. 16 x 11½ x 2. 1 vol., 1883-98, aud. off.; 6 vols., 1899-1913, aud. rec. rm.

462. ROAD AND BRIDGE RECORD, 1928-. 1 vol.

Record of construction and repair of roads and bridges, showing name, location, and description of road or bridge; and road district numbers. Arr. num. by road district nos., thereunder by names of roads. No index. Hdw. 520 pp. 17 x 13 x 2. Hwy. sup. off.

463. BILLS [and Reports], 1931-. 3 f. cabinets; 4 f. d. Contains:

- i. Assistant supervisors' monthly reports to supervisor of costs of labor and materials, showing date of report, itemized list and cost of labor and materials used, and names of employees and vendors.
- ii. Highway supervisor's reports to auditor of highway expenditures with claims attached, showing dates of report and expenditures, names of claimants, and nature and amount of expenditure.

Arr. chron. by dates of reports. No index. Hdw. and typed. File cabinet, 14 x 14 x 6; 1 f. d., 5 x 20 x 20; 3 f. d., 12 x 14 x 30. Hwy. sup. off.

464. HIGHWAY SUPERVISOR'S DELIVERY ORDERS, 1935-. 1 vol. Carbon copies of delivery orders issued by supervisor for material and supplies on contracts, showing dates of order and bid as accepted by board of commissioners; names and addresses of consignor and consignee, requisition and order numbers; and quantity, description, and unit price of materials or supplies. Arr. chron. by dates of orders. No index. Hdw. 8 x 10 x ½. Hwy. sup. off.

MAPS

465. TIPPECANOE COUNTY, 1936. 3 maps.

Communications and land tenure maps, showing section, Congressional township, and range lines and numbers; civil township boundary lines and names; plats of farms and land tracts; acreage; owner's name; and location of roads, railroads, telephone and telegraph lines, and streams. Published by Stacy Publishing Company, Rockford, Illinois. Black and white. Scale: 1" to 1 mi. 28 x 34. Hwy. sup. off.

466. TIPPECANOE COUNTY, 1922. 1 map.

Land tenure map, showing section lines and numbers, plats of farms and land tracts, acreage, and owner's name. Drawn by E. C. Minton. Published by Stacy Publishing Co., Rockford, Illinois. Black and white. No scale given. 24 x 24. Hwy. sup. off.

467. PRECINCT MAP, not dated. 1 blueprint.

Political map, showing name of township; township, ward, and precinct boundary lines; and ward and precinct numbers. Blueprint. Scale: 1" to 1 mi. 24 x 30. Hwy. sup. off.

XLV. COUNTY INSPECTOR OF WEIGHTS AND MEASURES

LEGAL STATUS

The office of county inspector of weights and measures has existed in Tippecanoe County ever since 1929¹ under authority of an act of 1925. The inspector is appointed for an indefinite term by the board of commissioners, with the approval of the state commissioner of weights and measures.²

The inspector must be an elector of the county at the time of his appointment; must have been an inhabitant thereof throughout the preceding year;³ must have successfully passed an examination given by the state commissioner of weights and measures;⁴ must reside within the county after his appointment;⁵ may also serve as city inspector of weights and measures;⁶ must not hold any other lucrative office;⁷ must post bond to be approved by the board of commissioners and filed in the office of the county auditor;⁸ and must take an oath to support the State and Federal Constitutions and faithfully discharge the duties of his office.⁹

¹ Information obtained from W. Forrest Moore, inspector of weights and measures for Tippecanoe County, on December 12, 1940, by Julian Jacobson.

² Const. 1851, art. 15, sec. 2. Acts 1925; Burns 69-104; Baldwin 16335. *Opinions of the Attorney General of Indiana, 1937*, p. 25.

³ Const. 1851, art. 6, sec. 4.

⁴ Acts 1925; Burns 69-107; Baldwin 16338.

⁵ Const. 1851, art. 6, sec. 5.

⁶ Acts 1925; Burns 69-105; Baldwin 16336.

⁷ Const. 1851, art. 2, sec. 9.

⁸ 1 Rev. Stat. 1852; Burns 49-104, 49-105; Baldwin 13057, 13063. Acts 1925; Burns 69-106; Baldwin 16337.

⁹ Const. 1851, art. 15, sec. 4. Acts 1905; Burns 10-3708; Baldwin 2660. 1 Rev. Stat. 1852; Burns 49-101; Baldwin 13054.

The inspector receives a regular salary in an amount (not less than \$1,200 per year) fixed by the board of commissioners, payable out of the county treasury after appropriation therefor by the county council.¹⁰

The inspector may be removed from office without cause at any time by the board of commissioners with the approval of the state commissioner of weights and measures. For official misconduct he may be removed from office by the state commissioner, acting alone, subject to appeal to the circuit court or superior court.¹¹

The board of commissioners has always had authority to obtain and keep standards of weights and measures to be used to test weighing and measuring devices used in the county. These standards were kept in the office of the clerk of the circuit court before 1853 and in the office of the county auditor from 1853 until the establishment of the office of county inspector of weights and measures.¹²

FUNCTIONS AND RECORDS

The county inspector of weights and measures is a "deputy inspector under the direction of the state commissioner of weights and measures," and must act in accordance with the regulations adopted by the state commissioner for the guidance of the state, county, and city inspectors. The county inspector has jurisdiction over the whole county except as to a city having a city inspector of weights and measures.¹³

He has charge of the county standards of weights and measures.¹⁴ These standards must conform to the state standards, which are kept by the state commissioner of weights and measures. The state standards must be certified and approved by the Federal Bureau of Standards before they are used and at least once every 10 years thereafter. At least once every 2 years the state commissioner, or his

¹⁰ Acts 1925; Burns 69-104; Baldwin 16335. *Opinions of the Attorney General of Indiana, 1933*, p. 376.

¹¹ Const. 1851, art. 15, sec. 2. Acts 1925; Burns 69-104, 69-107; Baldwin 16335, 16338. *Opinions of the Attorney General of Indiana, 1937*, p. 25.

¹² Acts 1807, ch. 58. Acts 1817-18 (general), ch. 67. Rev. L. 1824, ch. 109, sec. 5; ch. 116. Rev. L. 1831, ch. 110. Rev. Stat. 1838, ch. 114. Rev. Stat. 1843, ch. 63. 1 Rev. Stat. 1852, ch. 117. Acts 1911, ch. 263, secs. 3-7. Acts 1913, ch. 161, sec. 1.

¹³ Acts 1925; Burns 69-106; Baldwin 16337.

¹⁴ *Ibid.*

deputy or inspector, must compare the county standards with the state standards, and make all necessary corrections of the county standards.¹⁵ The board of commissioners must provide for the acquisition of all necessary standards, apparatus, and testing devices to be used by the inspector.¹⁶

At least once in each year he must test all weighing and measuring devices and containers, and the tools and instruments connected therewith, which are used in his territorial jurisdiction in determining the size, quantity, and weight of articles offered for sale, hire, or award. He places a suitable marking on each tested device or container showing that it is correct or is condemned until repaired. He confiscates any such device or container which is false or fraudulent or cannot be made to conform to the legal standard. The unauthorized use of a condemned device or container and the unauthorized removal or alteration of a mark of condemnation are punishable as criminal offenses.¹⁷

He has power and authority, as a special policeman, to make arrests without formal warrant for any violation of the statutes in relation to scales, weights, and measures; and to seize and use for evidence, without formal warrant, any false weight, scale, measure, or weighing or measuring device, or packages or amounts of commodities found to be used, retained, or offered in violation of law.¹⁸ It is a criminal offense for any person to molest, hinder, or obstruct the inspector in the performance of his official duties.¹⁹

He must keep a complete record of his work and make monthly and annual (before October 16) reports to the board of commissioners and the state commissioner.²⁰ At least once every 2 years the state commissioner, or his deputy or inspector, must visit the county and inspect the work of the county inspector.²¹

¹⁵ Acts 1925; Burns 69-102, 69-103; Baldwin 16333, 16334.

¹⁶ Acts 1925; Burns 69-104; Baldwin 16335.

¹⁷ Acts 1925; Burns 69-106, 69-108, 69-110, 69-112; Baldwin 16337, 16339, 16341, 16343.

¹⁸ Acts 1925; Burns 69-109; Baldwin 16340.

¹⁹ Acts 1925; Burns 69-110; Baldwin 16341.

²⁰ Acts 1925; Burns 69-106; Baldwin 16337.

²¹ Acts 1925; Burns 69-103; Baldwin 16334.

468. [ANNUAL REPORT OF INSPECTIONS], Feb. 1, 1940-. 1 vol. Copies of annual reports to state bureau of weights and measures, showing information as in entry 472. Arr. chron. by dates of reports. No index. Hdw. 100 pp. 12 x 7 x $\frac{3}{4}$. Carried in inspector's automobile.

469. [PUMP AND MEASURE INSPECTIONS], Feb. 1, 1940-. 7 vols. Copies of inspector's daily reports to state bureau of weights and measures of inspections of pumps and liquid measuring devices, showing date of inspection, name and address of owner of device, type of device, and result of inspection. Arr. chron. by dates of inspections. No index. Hdw. 100 pp. 6 x 4 x 1. Carried in inspector's automobile.

470. JOURNAL, Apr. 1931. 1 vol. Record of inspections of devices for weighing and measuring, showing date of inspection; name, address, and nature of business; type of device inspected; and results of inspection. Arr. chron. by dates of inspections. No index. Hdw. 250 pp. 15 x 12 x 2. Carried in inspector's automobile.

471. [SCALE AND WEIGHT INSPECTIONS], Feb. 1, 1940-. 7 vols. Copies of inspector's daily reports to state bureau of weights and measures of inspections of weighing and measuring devices, showing date of inspection, name and address of owner of device, type of device, and result of inspection. Arr. chron. by dates of inspections. No index. Hdw. 100 pp. 6 x 4 x 1. Carried in inspector's automobile.

472. [MONTHLY REPORT OF INSPECTIONS], Feb. 1, 1940-. 7 vols. Copies of monthly reports to state bureau of weights and measures of inspections, showing date of report; number of inspections; number and type of devices inspected; and number correct, adjusted, condemned, and confiscated; and number of prosecutions and convictions for violations of weight and measure law. Arr. chron. by dates of reports. No index. Hdw. 100 pp. 10 x 6 x $1\frac{1}{2}$. Carried in inspector's automobile.

XLVI. COUNTY AGRICULTURAL AGENT

LEGAL STATUS

The office of county agricultural agent has existed in Tippecanoe County ever since 1917 under a permissive act of 1913 and a mandatory act of 1937. The county agricultural agent is appointed for a 1-year term by the director of the

agricultural extension service of Purdue University, with the approval of the county agricultural agent board (a state board). This board prescribes his qualifications and may remove him from office. Any vacancy in office is filled in the manner provided for making the original appointment. Before 1937 the county agricultural agent was appointed annually by Purdue University (except that reappointments after 1923 could be made for 2-year terms), subject to the approval of the state and county boards of education. The county council is required to appropriate not less than \$1,000 annually for the expenses of this office. The act of 1937 provides that the county agricultural agent is to receive through Purdue University an annual salary of not less than \$2,000 (to be paid from a certain state fund provided for in that act), and that the county agricultural agent board must "make a distribution of state funds to the several counties, on a graduated scale, according to the qualifications of the county agricultural agent employed therein and the needs of the county."¹

An act of 1829 provided for the establishment of county agricultural societies but no funds were appropriated. An amendment of this act in 1835 encouraged the county to provide funds for the development of agriculture. These early societies were short lived but were revived by an act of 1852 which provided for the offering of annual premiums by the county for the various phases of agricultural improvement. By 1890 every county in the state had its agricultural society. The principal activity of the agricultural society was the operation of county fairs with exhibits, racing, and amusements.² Legislative action of 1865 providing for the Indiana Agricultural College (now Purdue

¹ Acts 1913, ch. 24, sec. 12. Acts 1913, 1923, 1927, 1937; Burns, 1940 suppl., 28-4911; Baldwin, 1937 suppl., 6457. *Opinions of the Attorney General of Indiana, 1937*, pp. 144, 561. *Sixth Annual Report, Purdue University, Department of Agricultural Extension, 1917*, p. 5.

The appropriation act of 1939 appropriated \$165,600 per year for operating expenses of the county agricultural agent board from July 1, 1939 through June 30, 1941. Acts 1939, ch. 47, sec. 2, p. 275.

Under the law in force in 1931 the state's contribution was not available in absence of appropriation by the county council. *Opinions of the Attorney General of Indiana, 1931*, p. 826.

The county could accept funds from the local farm bureau for the expenses of the office of county agricultural agent. *Ibid.*

² Acts 1828-29, ch. 4, sec. 1, 7. Acts 1834-35 (general), ch. 70, sec. 1. 1 Rev. Stat. 1852, ch. 2. William Carroll Latta, *Outline History of Indiana Agriculture* (Lafayette, Indiana, 1938), 271-275.

University) was the actual beginning of agricultural education in Indiana. An act of 1889 made it the duty of the college to conduct institutes among farmers and made an appropriation therefor. This act provided for the appointment of suitable persons to conduct institutes in the various counties.³ An act of 1907, which was repealed in 1911, required the payment of not more than \$100 annually by the county to promote agricultural extension activities.⁴ Under a mandatory law of 1911 the board of commissioners must authorize the payment of hall rents, printing, advertising, prizes for contests, and other local expenses of a county farmers' institute. Such expenditures may not exceed 25 cents per square mile of the area of the county.⁵ The county council and board of commissioners may appropriate \$200 annually for a corn growers' association or horticultural society, if there is no agricultural fair or association in active operation in the county.⁶

FUNCTIONS AND RECORDS

The county agricultural agent assists the farmers in obtaining greater efficiency, marketing by grade, using better sires, producing more legumes, preventing soil erosion, intelligently studying land use, improving pasture, using higher yielding varieties and adapted strain of seeds, culling flocks and herds, destroying insects and noxious weeds, and practicing careful organization in the farm business. The betterment of the rural home is his ultimate objective.⁷

Under the supervision of Purdue University, he conducts institutes, schools, and demonstrations to aid the farmers in the solution of these problems. He cooperates with farmers' clubs and other rural and civic organizations; assists boys and girls' clubs and contest work; encourages other movements for the advancement of agricultural and country life; gives advice on practical farm problems; and aids the schools of the county in giving practical education in agriculture and domestic science.⁸

³ Acts 1899, ch. 134, sec. 1. Acts 1865; Burns 28-5601; Baldwin 6966.

⁴ Acts 1907, ch. 117, secs. 1, 2. Acts 1911, ch. 54, sec. 6.

⁵ Acts 1911; Burns 28-5625; Baldwin 3610. *Opinions of the Attorney General of Indiana, 1934*, p. 295.

⁶ Acts 1917, 1933; Burns 15-319; Baldwin 3544.

⁷ *Twenty-Sixth Annual Report of Purdue University, Department of Agricultural Extension, 1936-37*, p. 10.

⁸ Acts 1913, 1923, 1927, 1937; Burns, 1940 suppl., 28-4911; Baldwin, 1937 suppl., 6457. *Twenty-Sixth Annual Report of Purdue University, Department of Agricultural Extension, 1936-37*, pp. 22-100.

The records of the agricultural agent consists of reports to Purdue University concerning his activities, compiled under the direction of the university.

473. [ANNUAL NARRATIVE REPORT], 1919-. 1 f. d.

Copies of annual narrative reports to Purdue University Agricultural Extension Service of agricultural agent's activities, showing date of report; names of agent and county; number of farm and club visits; activities on soil improvement; grain, fruit, and vegetable growing; care and breeding of stock; poultry raising; data on services rendered in farm management and marketing of products and stock; data on 4-H Club activities and membership; summary of accomplishments; and record of expenditures. Arr. chron. by dates of reports. No index. Hdw. and typed. 14 x 12 x 20. Agr. agt. off.

474. [REPORTS], 1935-. 1 f. d.

Agricultural agent's monthly reports to Purdue University Agricultural Extension Service on activities in extension work, showing names of agent and county; date of report; dates, programs, and results of farmers' meetings; number of home, farm, and club visits; number of days in office and traveling; miles traveled; summary of accomplishments; and schedule of work planned for coming month. Arr. chron. by dates of reports. No index. Hdw. and typed. 14 x 12 x 28. Agr. agt. off.

475. [CLAIMS], 1936-. 1 f. d.

Copies of agricultural agent's monthly expense reports to board of commissioners, showing date of report, name of agent, and nature and amount of expenses. Arr. chron. by dates of reports. No index. Hdw. 14 x 12 x 28. Agr. agt. off.

XLVII. HOME DEMONSTRATION AGENT

LEGAL STATUS

The office of home demonstration agent has existed in Tippecanoe County ever since December 1, 1936,¹ under the permissive authority of an act of 1931.²

¹ Information obtained from Marguerite Downing, Tippecanoe home demonstration agent, on December 11, 1940, by Julian Jacobson.

² Acts 1911; Burns 28-5622; Baldwin 3607. Acts 1931; Burns 28-5627; Baldwin 6475.

The home demonstration agent is appointed annually by Purdue University upon recommendation of the Division of Home Economics Extension of Purdue University. The appointing authority prescribes her qualifications in conformity with Federal Government requirements, fixes her salary, supervises her work, and may remove her from office at any time. She must be at least 21 years of age, unmarried, a graduate of a recognized school of home economics, and have had practical experience in teaching or other practical experience of equal value. Her salary is paid by Purdue University from funds allocated for this work.³ Her office expenses are paid from funds appropriated by the county council.⁴

A war emergency agricultural appropriation by the Federal Government, with financial cooperation of the county, enabled the extension department of Purdue University to maintain a home demonstration agent in Tippecanoe County during the years 1918 and 1919. This was done under the acts of 1913 providing for a county agricultural agent and before the office of county demonstration agent was established by legislative action.⁵

FUNCTIONS AND RECORDS

The home demonstration agent supervises the extension program for the improvement and advancement of home economics and rural life in harmony with Federal and state laws and in close cooperation with the county agricultural agent. She directs all home economics extension work, both adult and junior, including girls' 4-H Clubs, and cooperates with the county schools.⁶

She organizes a county project committee of women of the county, which advises her and assists in the direction of the extension program. Groups are organized for instruction in garment making and care, home furnishing, home management, nutrition, use of family income, garden making, cooking, canning, preserving, and soap making. She arranges

³ Information obtained from H. J. Reed, director of the Department of Agricultural Extension, Purdue University, on February 22, 1941, by Julian Jacobson.

⁴ Acts 1937; Burns, 1940 suppl., 28-4911; Baldwin, 1937 suppl., 6457.

⁵ *Seventh Annual Report of Purdue University, Department of Agricultural Extension, 1917-18*, pp. 26, 59, 60. *Eighth Annual Report of Purdue University, Department of Agricultural Extension, 1918-19*, p. 7.

⁶ Acts 1931; Burns 28-5627; Baldwin 6475.

exhibits of work done by club members, -conducts demonstrations, and aids in institute programs. Specialists are available in the division of home economics to assist in this work.⁷

She makes detailed annual reports to the Federal Government at Washington and monthly reports to the Department of Agricultural Extension at Purdue University.⁸

476. [REPORTS], 1935-. 1 f. d.

Home demonstration agent's monthly report to Purdue University agricultural extension service on activities in extension work, showing names of agent and county, date of report, dates and nature of demonstrations, and summary of accomplishments. Arr. chron. by dates of reports. No index. Hdw. 14 x 12 x 28. Agr. agt. off.

XLVIII. COMMISSION OF PUBLIC RECORDS

LEGAL STATUS

The commission of public records has existed in Tippecanoe County ever since 1939 under the mandatory requirements of an act of 1939. The commission consists of the judge and clerk of the circuit court, the president of the board of commissioners, and the county auditor. The clerk of the circuit court is secretary, and another member (selected by the commission) serves as chairman.¹

The members of the commission serve without compensation and receive no reimbursement for any expenses.²

An act of 1877 required the board of commissioners to order copies to be made of any public records in the county when necessary for their preservation.³ An act of 1925 provided that any public official, at his discretion, may turn

⁷ *Twenty-Sixth Annual Report of Purdue University, Department of Agricultural Extension, 1936-37*, pp. 84-90.

⁸ Information obtained from H. J. Reed, director of the Department of Agricultural Extension, Purdue University, on February 22, 1941, by Julian Jacobson.

¹ Acts 1939; Burns, 1940 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

For laws concerning eligibility, oath, and removal of these officers, see the essays on circuit court, board of commissioners, auditor, and clerk of the circuit court.

² Acts 1939; Burns, 1940 suppl., 49-3701; Baldwin, 1939 suppl., 5492-1.

³ Acts 1877; Burns 26-634; Baldwin 5339.

over to the Indiana State Library, for permanent preservation, any official books, records, documents, original papers, newspaper files, or printed books or materials, not in current use in his office;⁴ and an amendatory act of 1937 added a provision that the director of the state library, at his discretion, may make a copy of any official book, record, document, original paper, newspaper, or printed book or material in any public office, for preservation in the state archives.⁵ An act of 1935 created within the executive department of the state a "commission on public records," consisting of the Governor, the secretary of state, the state examiner, the director of the state library, and the director of the historical bureau. This act is almost identical with the act of 1939 creating a "commission of public records" in each county, except for the provisions relative to ex officio members of the commission.⁶ These laws reflect the past and present attitudes of the general assembly toward the preservation of public records.

FUNCTIONS AND RECORDS

It is the duty of the commission to classify public records on the following basis: Those (a) having no official or historical value; (b) those of current official value; (c) those of official value, but rarely consulted and of no appreciable value to the officer with whom they are filed; and (d) those of purely historical value.⁷

Records of class (a), occupying space to no purpose in the offices and storerooms of the county, must be destroyed or otherwise disposed of 3 years after they were originally filed, unless a law prohibits their destruction or requires that they be kept beyond that period.⁸ Records of class (b) are to be "retained in the office where they are required to be filed."⁹

Records of classes (c) and (d) must be transferred to the state library 3 years after the date of the filing, unless they are then in frequent use by the officer in charge. In the event of such transfer, the records of class (c) will

⁴ Acts 1925; Burns 63-830; Baldwin 10287.

⁵ Acts 1925, 1937; Burns, 1940 suppl., 63-830; Baldwin, 1937 suppl., 10287.

⁶ Acts 1935; Burns, 1940 suppl., 63-1901 to 63-1910; Baldwin, 1935 suppl., 15400-1 to 15400-10.

Opinions of the Attorney General of Indiana, 1939. p. 259.

⁷ Acts 1939; Burns, 1940 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

⁸ Acts 1939; Burns, 1940 suppl., 49-3703, 49-3704; Baldwin, 1939 suppl., 5492-3, 5492-4.

⁹ Acts 1939; Burns, 1940 suppl., 49-3702; Baldwin, 1939 suppl., 5492-2.

be added to the "archives" of the library, while those of class (d) will constitute a part of the "collection" of that institution.¹⁰

When any public records are ordered destroyed or transferred, the commission must enter an order to that effect on its minutes. The order must be dated and must contain a general description of the public records to be destroyed or transferred.¹¹

It is unlawful for any public official or person to destroy any public record unless the commission has previously given its approval in writing and entered such approval on the minutes of the commission.¹²

Within the meaning of the act of 1939, a public record is any written or printed book, paper, document, map, or drawing which is the property of any county, and in or on which any entry has been made or is required by law to be made, or which any officer or employee of the state has received or is required to receive for filing.¹³

XLIX. COUNTY POUNDKEEPER (1826-53)

LEGAL STATUS

From 1826 until 1853 Tippecanoe County had a poundkeeper, who was annually appointed by the board of commissioners and served until his successor was chosen and qualified.¹

FUNCTIONS AND RECORDS

The county poundkeeper had charge of the county pound erected at or near the county courthouse with fence, gate, lock, and key, where estray animals were confined. He kept the pound in repair and attended it at such time as estrays were directed to continue therein. On the failure of the poundkeeper to discharge his duties properly, he was subject to a forfeiture of his pay and the additional sum of \$8 to

¹⁰ Acts 1939; Burns, 1940 suppl., 49-3704 to 49-3706; Baldwin, 1939 suppl., 5492-4 to 5492-6.

¹¹ Acts 1939; Burns, 1940 suppl., 49-3707; Baldwin, 1939 suppl., 5492-7.

¹² Acts 1939; Burns, 1940 suppl., 49-3708; Baldwin, 1939 suppl., 5492-8.

¹³ Acts 1939; Burns, 1940 suppl., 49-3709; Baldwin, 1939 suppl., 5492-9.

¹ Acts 1817-18 (general), ch. 68, sec. 8. Rev. L. 1824, ch. 15, sec. 7; ch. 20, sec. 27; ch. 39, sec. 11. Acts 1825-26, ch. 10, sec. 1 (Tippecanoe organization act). Rev. L. 1831, ch. 20, sec. 27. Rev. Stat. 1838, ch. 21, sec. 27. Rev. Stat. 1843, ch. 4, sec. 49; ch. 7, sec. 20.

the person injured.² Estrayed animals taken up by residents of the county were delivered to the pound, where they were held subject to reclaiming by their owners or order of sale made by the court.³

In 1853 the general assembly abolished this office and provided that all estrays be thereafter kept in the custody of the taker-up until they were reclaimed by their owner or sold at public sale.⁴

L. COUNTY LIQUOR AGENT (1855-59)

LEGAL STATUS

From 1855 until 1859 Tippecanoe County had county liquor agents appointed for 1-year terms by the board of commissioners under a permissive act of 1855, which provided that two agents could be appointed from each township.¹ A liquor agent could not keep an inn, public eating house, boarding house, grocery, oyster shop, fruit store, barroom, confectionery, place of amusement, or public resort; could not serve as an officer or member of the crew of any watercraft; and could not be interested, except as an inhabitant of the county, in any purchase or sale made by him.²

Each liquor agent posted a bond with the county auditor in an amount not less than \$1,000, approved by the board of commissioners.³

FUNCTIONS AND RECORDS

A county liquor agent was authorized to purchase spirituous and intoxicating liquor and sell the same within the county for medicinal, chemical, and mechanical uses, and pure wines for sacramental use. Liquor was purchased with money provided by the county, or with the agent's personal funds. In Tippecanoe County, the agents financed the business and the county paid interest on the money so used.⁴ An

² *Ibid.*

³ Rev. Stat. 1838, ch. 37, sec. 9. Rev. Stat. 1843, ch. 21, sec. 4.

⁴ 1 Rev. Stat. 1852, chs. 4, 92.

¹ Acts 1855, ch. 105, sec. 5. Acts 1858 (Spec. Sess.), ch. 15. Commissioners' Records, F:298, 299, 317.

² Acts 1855, ch. 105, sec. 5.

³ *Ibid.*, sec. 8.

⁴ *Ibid.*, secs. 5, 7. Commissioners' Records, F:298, 299, 317.

agent sold such liquors only in one place designated by the board of commissioners, in conformity with rules prescribed by the board, and at a price 25 percent over cost and no more.⁵

He could sell liquor only to adults of good reputation for sobriety residing in the county or a township or city adjoining such county; and could make sales only when he had good reason to believe that liquor sold was to be used for one or more of the designated legal purposes. Liquor could not be consumed on the premises where sold.⁶

He was required to keep a complete record of all purchases and sales, showing dates, quantities, kinds, prices, names of purchasers, and the uses intended as stated by the purchasers. He made a sworn report to the board of commissioners every 3 months giving such information and the amount of liquor remaining on hand at the time of the report, and in accordance therewith made settlements with the board for all funds due to the county.⁷

The office was abolished by an act of December 21, 1858, effective August 5, 1859.⁸

⁵ Acts 1855, ch. 105, sec. 5.

⁶ *Ibid.*, sec. 6.

⁷ *Ibid.*, sec. 5.

⁸ Acts 1858 (Spec. Sess.), ch. 15.

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